

# SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**FORTY-FOURTH DAY**

(Thursday, April 30, 2015)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Bettencourt, Birdwell, Burton, Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

The President announced that a quorum of the Senate was present.

Senator Estes offered the invocation as follows:

As we pray today, let me remind you of the words of Jesus of Nazareth: Why are you trying to trap me, bring me a denarius and let me look at it. They brought him the coin and he looked at it. Whose portrait is this and whose inscription? Caesar's, they replied. Then Jesus looked at them and said, Give to Caesar what is Caesar's and to God what is God's. Let us pray. Lord, as we come together in these waning days of this session, please burn within our hearts the reality that there are things of government and things of God. Lord, please help us to not confuse the two, but help us to give our diligence, our time, and our intelligence to both, so that the people of Texas may be blessed. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

## MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, April 30, 2015 - 1

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HB 32**

Bonnen, Dennis

Relating to the computation and rates of the franchise tax; decreasing tax rates; amending provisions subject to a criminal penalty.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### **PHYSICIAN OF THE DAY**

Senator Birdwell was recognized and presented Dr. Lesca Hadley of Cleburne as the Physician of the Day.

The Senate welcomed Dr. Hadley, accompanied by Shiv Agarwal and Blair Cushing, and thanked her for her participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

### **MESSAGES FROM THE GOVERNOR**

The following Messages from the Governor were read and were referred to the Committee on Nominations:

April 29, 2015  
Austin, Texas

TO THE SENATE OF THE EIGHTY-FOURTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be members of the Texas State University System Board of Regents for terms to expire February 1, 2021:

James "David" Montagne

Beaumont, Texas

(Mr. Montagne is being reappointed)

Veronica Ann Muzquiz Edwards

San Antonio, Texas

(replacing Kevin Lilly of Houston whose term expired)

Alan Lee Tinsley

Madisonville, Texas

(replacing Ronald Mitchell of Horseshoe Bay whose term expired)

To be members of the Texas Funeral Service Commission for terms to expire February 1, 2021:

Larry M. Allen  
Mesquite, Texas  
(replacing Sue Evenwel of Mount Pleasant whose term expired)

Gregory D. Compean  
Richmond, Texas  
(replacing Elwynn "Gene" Allen of Kerrville whose term expired)

To be members of the Texas Private Security Board for terms to expire February 1, 2021:

Patricia James  
Houston, Texas  
(replacing John Chism of Irving whose term expired)

Claude Siems  
Houston, Texas  
(replacing Brian England of Forney whose term expired)

Respectfully submitted,

/s/Greg Abbott  
Governor

### **SENATE RESOLUTION 656**

Senator Rodríguez offered the following resolution:

**SR 656**, Recognizing the Dark Skies of Texas at Big Bend Ranch State Park.

The resolution was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

### **GUESTS PRESENTED**

Senator Rodríguez was recognized and introduced to the Senate a Dark Skies of Texas at Big Bend Ranch State Park delegation.

The Senate welcomed its guests.

### **GUESTS PRESENTED**

Senator Watson was recognized and introduced to the Senate an Austin Downtown Founder Lions Club delegation.

The Senate welcomed its guests.

### **GUESTS PRESENTED**

Senator Uresti was recognized and introduced to the Senate delegations from Batesville Elementary School and San Vicente Elementary School.

The Senate welcomed its guests.

### **BILLS AND RESOLUTION SIGNED**

The President announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

**SB 149, SB 835, SCR 17.**

## INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

## CONCLUSION OF MORNING CALL

The President at 10:30 a.m. announced the conclusion of morning call.

## COMMITTEE SUBSTITUTE SENATE BILL 778 ON SECOND READING

Senator Seliger moved to suspend the regular order of business to take up for consideration **CSSB 778** at this time on its second reading:

**CSSB 778**, Relating to performance-based tuition limitations for certain public institutions of higher education.

The motion prevailed.

Senators Burton and Ellis asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

### Floor Amendment No. 1

Amend **CSSB 778** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, on page 2, lines 22 through 60, strike added Sections 54.05131(d), (e), (f), and (g), Education Code, and substitute the following:

(d) The coordinating board in consultation with the Legislative Budget Board shall determine whether an institution has achieved the applicable target levels for purposes of Subsections (f) and (g). Using the negotiated rulemaking procedures under Chapter 2008, Government Code, the coordinating board by rule shall establish the process by which an institution's achievement on a performance measure is submitted to and verified by the coordinating board.

(e) The coordinating board shall notify the governing board of an institution as soon as practicable after the coordinating board determines that Subsection (f) or (g) applies to the tuition charged by the institution for an academic year and of the limitation prescribed by the applicable subsection on the amount of tuition that may be charged by the institution for that academic year.

(f) This subsection applies to tuition charged for an academic year by an institution to which this section applies only if the institution did not achieve, in the most recent state fiscal year preceding that academic year for which information is available, a majority of the target levels assigned to the performance measures included in the General Appropriations Act as applicable to the institution for that state fiscal year. For an academic year in which this subsection applies to the tuition charged by an institution, unless the institution has been granted an exception under Subsection (j) for that year, the amount of tuition the governing board of the institution charges under Section 54.0513 to a student for that academic year may not

exceed the total amount of tuition that the governing board would have charged under that section to a similarly situated student in the preceding academic year, as that amount is adjusted for each academic year for inflation as determined under Subsection (i). The governing board may not increase the amount of tuition charged under this subsection to a student more than once in any academic year.

(g) This subsection applies to tuition charged for an academic year by an institution to which this section applies only if the institution achieved, in the most recent state fiscal year preceding that academic year for which information is available, a majority of the target levels assigned to the performance measures included in the General Appropriations Act as applicable to the institution for that state fiscal year. For an academic year in which this subsection applies to the tuition charged by an institution, the amount of tuition the governing board of the institution charges under Section 54.0513 to a student for that academic year may not exceed by more than five percent the total amount of tuition that the governing board would have charged under that section to a similarly situated student in the preceding academic year, as that amount is adjusted for each academic year for inflation as determined under Subsection (i). The governing board may not increase the amount of tuition charged under this subsection to a student more than once in any academic year.

(h) For purposes of this section:

(1) an institution is considered to have achieved a target level assigned to a performance measure if the institution has achieved at least 98 percent of the target level; and

(2) students are similarly situated if they share the same residency status, degree program, course load, course level, tuition exemption status, and other circumstances affecting the tuition charged to the student.

(2) In SECTION 1 of the bill, in added Section 54.05131(h), Education Code (page 2, line 61), strike "h" and substitute "i".

(3) In SECTION 1 of the bill, in added Section 54.05131(i), Education Code (page 3, line 2), strike "i" and substitute "j".

(4) In SECTION 1 of the bill, in added Section 54.05131(i), Education Code (page 3, line 4), strike "this section" and substitute "Subsection (f)".

(5) In SECTION 1 of the bill, in added Section 54.05131(i), Education Code (page 3, line 5), strike "this section" and substitute "that subsection".

(6) In SECTION 1 of the bill, following the period at the end of added Section 54.05131(i), Education Code (page 3, line 8), add the following: "Subsection (g) applies to an institution that is granted an exception under this subsection."

The amendment to **CSSB 778** was read.

Senator Schwertner offered the following amendment to Floor Amendment No. 1:

## **Floor Amendment No. 2**

Amend Floor Amendment No. 1 by Seliger to **CSSB 778**, on page 2, line 21, by striking "five" and substituting "three".

The amendment to Floor Amendment No. 1 to **CSSB 778** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 778**, the amendment as amended was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended.

Senator Seliger offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **CSSB 778** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, strike added Section 322.025(b), Government Code (page 3, lines 19-30), and substitute the following:

(b) The governing board of each institution of higher education to which Section 54.05131, Education Code, applies shall submit to the board, as part of the institution's legislative appropriations request for the general appropriations bill prepared by the board under Section 322.008, a target level for each performance measure applicable to the institution for each of the state fiscal years covered by the bill. The target levels submitted by an institution under this subsection must be established by the institution's governing board in consultation with the institution's president and provosts and with the institution's system administration, if the institution is a component institution of a university system. In establishing the target levels, the institution's governing board shall consider the Texas Higher Education Coordinating Board's standards under Subsection (c).

(c) The Texas Higher Education Coordinating Board, using the negotiated rulemaking procedures under Chapter 2008, by rule shall develop standards to be considered by the governing board of an institution of higher education in establishing the institution's target levels for performance measures under Subsection (b). In developing the standards, the negotiating committee established for purposes of this subsection and the coordinating board shall consider institutional improvement on target levels. The coordinating board shall reconvene the negotiating committee to assist the coordinating board whenever the coordinating board modifies or updates the standards.

(2) In SECTION 2 of the bill, in added Section 322.025(c), Government Code (page 3, line 31), strike "(c)" and substitute "(d)".

The amendment to **CSSB 778** was read.

Senator Watson offered the following amendment to Floor Amendment No. 3:

### **Floor Amendment No. 4**

Amend Floor Amendment No. 3 to **CSSB 778** on page 1, line 18, between "governing board" and "the Texas", by striking "shall consider" and substituting "shall adhere to".

The amendment to Floor Amendment No. 3 to **CSSB 778** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Question recurring on the adoption of Floor Amendment No. 3 to **CSSB 778**, the amendment as amended was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 as amended.

Senator Schwertner offered the following amendment to the bill:

### **Floor Amendment No. 5**

Amend **CSSB 778** (senate committee printing) as follows:

(1) In the recital to SECTION 1 of the bill, on page 1, line 23, strike "adding Section 54.05131" and substitute "adding Sections 54.05131 and 54.05132".

(2) At the end of SECTION 1 of the bill, immediately following added Section 54.05131, Education Code (page 3, between lines 8 and 9), add the following:

Sec. 54.05132. TEMPORARY LIMITATION ON TOTAL AMOUNT OF TUITION. (a) In this section:

(1) "General academic teaching institution" and "public state college" have the meanings assigned by Section 61.003.

(2) "Tuition" includes:

(A) tuition for which the rates are prescribed by this chapter; and

(B) tuition charged by an institution of higher education under Section 54.0513 or another law authorizing an institution to establish tuition rates.

(b) Notwithstanding Section 54.0513, the total amount of tuition charged by a general academic teaching institution other than a public state college to a student for the 2016-2017 or 2017-2018 academic year may not exceed by more than one percent the total amount of tuition that the institution would have charged under this chapter to a similarly situated student for the preceding academic year, as that amount is adjusted for each academic year for inflation as determined under Subsection (c). For purposes of this subsection, students are similarly situated if they share the same residency status, degree program, course load, course level, tuition exemption status, and other circumstances affecting the tuition charged to the student. This subsection does not ensure that the total amount of tuition charged to an individual student does not increase based on a change in the student's residency status, degree program, course load, course level, tuition exemption status, or other circumstance affecting the tuition charged to the student.

(c) Not later than January 31 of each year, or as soon thereafter as practicable, the Legislative Budget Board shall publish and certify to the governing board of each institution to which this section applies the inflation rate to be used for purposes of this section for the next academic year. The inflation rate is the percentage increase, if any, as expressed in decimal form rounded to the nearest thousandth of one percent, in the consumer price index, as defined by Section 341.201, Finance Code, for the preceding calendar year as compared to the consumer price index for the year preceding that year.

(d) This section expires September 1, 2018.

(3) In SECTION 3 of the bill, on page 3, lines 41-44, strike "Tuition charged by an institution for an academic year before that academic year is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose."

SCHWERTNER  
WEST

The amendment to **CSSB 778** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5.

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend **CSSB 778** (Senate Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 56.310, Education Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding any other law, the amount appropriated for the TEXAS grant program under this subchapter for a state fiscal biennium may not exceed the amount appropriated for the program in the preceding state fiscal biennium, as that amount is adjusted for inflation. Not later than January 31 of each odd-numbered year, or as soon thereafter as practicable, the Legislative Budget Board shall publish and certify to the legislature the inflation rate to be used for purposes of this subsection for the next state fiscal biennium. The inflation rate is the percentage increase, if any, as expressed in decimal form rounded to the nearest thousandth of one percent, in the consumer price index, as defined by Section 341.201, Finance Code, for the preceding state fiscal biennium as compared to the consumer price index for the biennium preceding that biennium.

SECTION \_\_\_\_\_. Section 56.310(d), Education Code, as added by this Act, applies beginning with appropriations for the TEXAS grant program under Subchapter M, Chapter 56, Education Code, for the state fiscal biennium ending August 31, 2019.

The amendment to **CSSB 778** was read.

On motion of Senator Seliger, Floor Amendment No. 6 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Huffines, Huffman, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor.

Nays: Ellis, Garcia, Hinojosa, Lucio, Menéndez, Rodríguez, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

(Senator Eltife in Chair)



Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend **CSSB 778** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter B, Chapter 54, Education Code, is amended by adding Section 54.0514 to read as follows:

Sec. 54.0514. LIMITATION ON TOTAL AMOUNT OF TUITION. (a) In this section, "tuition" includes:

(1) tuition for which the rates are prescribed by this chapter; and

(2) tuition charged by an institution of higher education under Section 54.0513 or another law authorizing an institution to establish tuition rates.

(a-1) This section does not apply to tuition charged by an institution of higher education for an academic period before the 2016-2017 academic year. This subsection expires January 1, 2017.

(b) The total amount of tuition charged by an institution of higher education to a student for an academic year may not exceed the total amount of tuition that the institution would have charged under this chapter to a similarly situated student for the 2015-2016 academic year. For purposes of this subsection, students are similarly situated if they share the same residency status, degree program, course load, course level, tuition exemption status, and other circumstances affecting the tuition charged to students. This subsection does not ensure that the total amount of tuition charged to an individual student does not increase based on a change in the student's residency status, degree program, course load, course level, tuition exemption status, or other circumstance affecting the tuition charged to the student.

SECTION 2. Sections 54.0513(a) and (b), Education Code, are amended to read as follows:

(a) In addition to amounts that a governing board of an institution of higher education is authorized to charge as tuition under the other provisions of this chapter, the governing board~~[, under the terms the governing board considers appropriate,]~~ may charge any student an amount designated as tuition, not to exceed the amount that enables the institution to comply with Section 54.0514, that the governing board considers necessary for the effective operation of the institution.

(b) Subject to the limit provided by Subsection (a) on the amount designated as tuition charged under this section, a ~~[A]~~ governing board may set a different tuition rate under this section for each program and course level offered by each institution of higher education~~[. A governing board may set a different tuition rate]~~ as the governing board considers appropriate to increase graduation rates, encourage efficient use of facilities, ~~[or]~~ enhance employee performance, or further another legitimate purpose of the institution.

SECTION 3. Sections 54.0515(e) and (f), Education Code, are amended to read as follows:

(e) It is the legislature's intent that each institution of higher education~~[, as a condition to tuition deregulation under Section 54.0513,]~~ reasonably implement the following:

(1) each institution shall make satisfactory progress towards the goals provided in its master plan for higher education and in "Closing the Gaps," the state's master plan for higher education; and

(2) each institution shall meet acceptable performance criteria, including measures such as graduation rates, retention rates, enrollment growth, educational quality, efforts to enhance minority participation, opportunities for financial aid, and affordability.

(f) The committee shall:

(1) meet at the call of either chair;

(2) monitor and regularly report to the legislature on each institution of higher education's compliance with the requirements of Subsection (e); and

(3) receive and review information concerning the affordability and accessibility of higher education~~[-including the impact of tuition deregulation].~~

SECTION 4. This Act applies beginning with tuition charged by public institutions of higher education for the 2016 fall semester. Tuition charged by an institution of higher education in an academic period before that semester is covered by the law in effect before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect January 1, 2016.

The amendment to **CSSB 778** was read.

On motion of Senator Seliger, Floor Amendment No. 7 was tabled by the following vote: Yeas 16, Nays 15.

Yeas: Bettencourt, Birdwell, Campbell, Eltife, Estes, Fraser, Hall, Hancock, Huffman, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor.

Nays: Burton, Creighton, Ellis, Garcia, Hinojosa, Huffines, Lucio, Menéndez, Rodríguez, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 778** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Burton, Ellis.

### **COMMITTEE SUBSTITUTE SENATE BILL 778 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 778** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Bettencourt, Birdwell, Campbell, Creighton, Eltife, Estes, Fraser, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Ellis.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

### REASON FOR VOTE

Senator Burton submitted the following reason for vote on **SB 778**:

I voted against SB 778 because the metrics in the bill, even if complied with, are not sufficiently tailored to justify a rise in tuition for students. I believe measurements of student debt, performance of transfer students, and the availability of courses required to complete degree plans should be key metrics. Additionally, the performance metrics are not measured by a disinterested third party.

BURTON

### REMARKS ORDERED PRINTED

On motion of Senator Garcia and by unanimous consent, the remarks regarding **SB 778** were ordered reduced to writing and printed in the *Senate Journal*.

The remarks were printed in an addendum to this day's Journal.

### SENATE BILL 1864 ON SECOND READING

On motion of Senator Burton and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1864** at this time on its second reading:

**SB 1864**, Relating to requiring a peace officer to obtain a warrant to search a cellular telephone or other wireless communications device.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

### SENATE BILL 1864 ON THIRD READING

Senator Burton moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1864** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### COMMITTEE SUBSTITUTE SENATE BILL 1215 ON SECOND READING

On motion of Senator Bettencourt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1215** at this time on its second reading:

**CSSB 1215**, Relating to a study of the feasibility and benefits to this state of abolishing the property tax assistance division of the office of the comptroller of public accounts and transferring its powers and duties to an independent agency.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1215 ON THIRD READING**

Senator Bettencourt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1215** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 681 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 681** at this time on its second reading:

**CSSB 681**, Relating to a bailiff administering the selection of names of persons for jury service in certain counties.

The motion prevailed.

Senator Fraser asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Fraser.

**COMMITTEE SUBSTITUTE  
SENATE BILL 681 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 681** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Fraser.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 955 ON SECOND READING**

Senator Schwertner moved to suspend the regular order of business to take up for consideration **CSSB 955** at this time on its second reading:

**CSSB 955**, Relating to permissible locations of open-enrollment charter schools created by certain institutions of higher education.

The motion prevailed.

Senator Nichols asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Nichols.

### **COMMITTEE SUBSTITUTE SENATE BILL 955 ON THIRD READING**

Senator Schwertner moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 955** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Nichols.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

### **SENATE BILL 740 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 740** at this time on its second reading:

**SB 740**, Relating to the assessment of court costs and fees on conviction of multiple offenses or on conviction of multiple counts of the same offense.

The bill was read second time.

Senator West offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **SB 740** (senate committee printing) in SECTION 1 of the bill, in added Article 102.073, Code of Criminal Procedure (page 1, between lines 31 and 32), by inserting the following appropriately lettered subsection:

( ) This article does not apply to a single criminal action alleging only the commission of two or more offenses punishable by fine only for which a citation or notice to appear was issued in accordance with Article 14.06(b) of this code or Section 543.004, Transportation Code, as applicable.

The amendment to **SB 740** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**SB 740** as amended was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**SENATE BILL 740 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 740** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 724 ON SECOND READING**

On motion of Senator Perry and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 724** at this time on its second reading:

**CSSB 724**, Relating to the motor vehicle sales tax applicable to motor vehicles used by transportation companies for certain purposes.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 724 ON THIRD READING**

Senator Perry moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 724** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1057 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1057** at this time on its second reading:

**CSSB 1057**, Relating to the provision of funding for indigent defense services.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1057 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1057** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **SENATE BILL 1072 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1072** at this time on its second reading:

**SB 1072**, Relating to the removal of a precinct or county chair for abandonment of office.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

### **SENATE BILL 1072 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1072** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **COMMITTEE SUBSTITUTE**

### **SENATE BILL 1059 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1059** at this time on its second reading:

**CSSB 1059**, Relating to the issuance of certain permits for the movement of oversize or overweight vehicles.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

### **COMMITTEE SUBSTITUTE**

### **SENATE BILL 1059 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1059** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **SENATE BILL 1309 ON SECOND READING**

Senator Menéndez moved to suspend the regular order of business to take up for consideration **SB 1309** at this time on its second reading:

**SB 1309**, Relating to eligibility requirements for issuance of a teaching certificate to an applicant who holds a Junior Reserve Officer Training Corps instructor teaching certification.

The motion prevailed.

Senator Kolkhorst asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Kolkhorst.

### **SENATE BILL 1309 ON THIRD READING**

Senator Menéndez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1309** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Kolkhorst.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

### **COMMITTEE SUBSTITUTE SENATE BILL 750 ON SECOND READING**

On motion of Senator L. Taylor and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 750** at this time on its second reading:

**CSSB 750**, Relating to a report made by the Texas Education Agency regarding the property and casualty insurance costs of school districts and open-enrollment charter schools.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

### **COMMITTEE SUBSTITUTE SENATE BILL 750 ON THIRD READING**

Senator L. Taylor moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 750** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.



**SENATE BILL 1148 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1148** at this time on its second reading:

**SB 1148**, Relating to the functions of the Public Utility Commission of Texas in relation to the economic regulation of water and sewer service.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**SENATE BILL 1148 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1148** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1820 ON SECOND READING**

On motion of Senator V. Taylor and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1820** at this time on its second reading:

**CSSB 1820**, Relating to the exemption of certain vehicles from towing regulations.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1820 ON THIRD READING**

Senator V. Taylor moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1820** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 1434 ON SECOND READING**

On motion of Senator V. Taylor and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1434** at this time on its second reading:

**SB 1434**, Relating to counting time spent by students participating in certain approved off-campus instructional programs in calculation of the average daily attendance for a school district or open-enrollment charter school.

The bill was read second time and was passed to engrossment without objection.  
All Members are deemed to have voted "Yea" on the passage to engrossment.

**SENATE BILL 1434 ON THIRD READING**

Senator V. Taylor moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1434** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1641 ON SECOND READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSSB 1641** at this time on its second reading:

**CSSB 1641**, Relating to the establishment of a pilot program to provide protective services to certain persons determined to be at risk of future harm from abuse, neglect, or exploitation.

The motion prevailed.

Senator Nichols asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Nichols.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1641 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1641** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Nichols.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1108 ON SECOND READING**

Senator Lucio moved to suspend the regular order of business to take up for consideration **CSSB 1108** at this time on its second reading:

**CSSB 1108**, Relating to the creation of regional emergency communication districts; authorizing a fee.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Ellis, Estes, Fraser, Garcia, Hall, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Perry, Rodríguez, Schwertner, L. Taylor, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Eltife, Hancock, Nichols, Seliger.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Eltife, Hancock, Nichols, Seliger.

### **COMMITTEE SUBSTITUTE SENATE BILL 1108 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1108** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Ellis, Estes, Fraser, Garcia, Hall, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Perry, Rodríguez, Schwertner, L. Taylor, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Eltife, Hancock, Nichols, Seliger.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 4. (Same as previous roll call)

**(President in Chair)**

### **COMMITTEE SUBSTITUTE SENATE BILL 142 ON SECOND READING**

Senator Garcia moved to suspend the regular order of business to take up for consideration **CSSB 142** at this time on its second reading:

**CSSB 142**, Relating to the appointment and training of volunteer deputy registrars.

The motion prevailed.

Senator Burton asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Burton.

**COMMITTEE SUBSTITUTE  
SENATE BILL 142 ON THIRD READING**

Senator Garcia moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 142** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Burton.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1170 ON SECOND READING**

On motion of Senator Garcia and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1170** at this time on its second reading:

**CSSB 1170**, Relating to excluding certain students from the computation of dropout and completion rates for purposes of public school accountability.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1170 ON THIRD READING**

Senator Garcia moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1170** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 164 ON SECOND READING**

Senator Lucio moved to suspend the regular order of business to take up for consideration **SB 164** at this time on its second reading:

**SB 164**, Relating to a notification requirement if a school counselor is not assigned to a public school campus.

The motion prevailed.

Senators Burton, Hall, Hancock, Huffines, Nelson, Perry, Schwertner, and V. Taylor asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Nichols offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 164** (senate committee report) in SECTION 1 of the bill, in added Section 33.008, Education Code (page 1, between lines 49 and 50), by inserting the following:

(f) A school district that is located in a county with a population of less than 100,000 is not required to provide the notice required by this section.

The amendment to **SB 164** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**SB 164** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Burton, Hall, Hancock, Huffines, Nelson, Perry, Schwertner, V. Taylor.

**SENATE BILL 164 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 164** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Bettencourt, Birdwell, Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nichols, Rodríguez, Seliger, L. Taylor, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Nelson, Perry, Schwertner.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 8.

Yeas: Bettencourt, Birdwell, Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Garcia, Hinojosa, Huffman, Kolkhorst, Lucio, Menéndez, Nichols, Rodríguez, Seliger, L. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Hall, Hancock, Huffines, Nelson, Perry, Schwertner, V. Taylor.

**SENATE BILL 715 ON SECOND READING**

On motion of Senator Hall and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 715** at this time on its second reading:

**SB 715**, Relating to sworn statements and other documentation provided to support the issuance of a search warrant.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**SENATE BILL 715 ON THIRD READING**

Senator Hall moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 715** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1530 ON SECOND READING**

Senator Burton moved to suspend the regular order of business to take up for consideration **CSSB 1530** at this time on its second reading:

**CSSB 1530**, Relating to the offense of leaving a motor vehicle unattended.

The motion prevailed.

Senators Campbell and Fraser asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Campbell, Fraser.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1530 ON THIRD READING**

Senator Burton moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1530** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Bettencourt, Birdwell, Burton, Creighton, Ellis, Eltife, Estes, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Campbell, Fraser.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 183 ON SECOND READING**

On motion of Senator Huffman and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 183** at this time on its second reading:

**CSSB 183**, Relating to the offenses of the violation of civil rights of and improper sexual activity with individuals in custody; imposing a criminal penalty.

The bill was read second time and was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 183 ON THIRD READING**

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 183** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 228 ON THIRD READING**

Senator Creighton moved to suspend the regular order of business to take up for consideration **CSSB 228** at this time on its third reading and final passage:

**CSSB 228**, Relating to an exemption from the sales tax for firearms and hunting supplies for a limited period.

The motion prevailed by the following vote: Yeas 20, Nays 11.

Yeas: Bettencourt, Campbell, Creighton, Eltife, Estes, Hall, Hancock, Hinojosa, Huffman, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, L. Taylor, V. Taylor, Uresti, Watson, Whitmire.

Nays: Birdwell, Burton, Ellis, Fraser, Garcia, Huffines, Menéndez, Rodríguez, Seliger, West, Zaffirini.

The bill was read third time and was passed by the following vote: Yeas 20, Nays 11. (Same as previous roll call)

**(Senator Eltife in Chair)**

**(President in Chair)**

**ACKNOWLEDGMENT**

The President acknowledged the presence of Sun Wei of Shandong Province of the People's Republic of China.

The Senate welcomed its guest.

**(Senator Huffman in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 455 ON SECOND READING**

Senator Creighton moved to suspend the regular order of business to take up for consideration **CSSB 455** at this time on its second reading:

**CSSB 455**, Relating to special three-judge district courts convened to hear certain cases.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Huffines, Huffman, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor.

Nays: Ellis, Garcia, Hinojosa, Menéndez, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

The bill was read second time and was passed to engrossment by the following vote: Yeas 21, Nays 10. (Same as previous roll call)

**SENATE RULE 5.14(a) SUSPENDED**  
**(Intent Calendar)**  
**(Motion In Writing)**

Senator Hancock submitted the following Motion In Writing:

Mr. President:

I move suspension of Senate Rule 5.14 so that we may move the Intent Calendar deadline to 5 p.m. today.

HANCOCK

The Motion In Writing was read and prevailed without objection.

**(President in Chair)**

**COMMITTEE SUBSTITUTE**  
**SENATE BILL 1760 ON SECOND READING**

Senator Creighton moved to suspend the regular order of business to take up for consideration **CSSB 1760** at this time on its second reading:

**CSSB 1760**, Relating to the transparent and equitable application of ad valorem taxation procedures.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti.

Nays: Ellis, Garcia, Rodríguez, Watson, West, Whitmire, Zaffirini.

The bill was read second time.

Senator Creighton offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1760** (senate committee printing) as follows:

(1) Strike the following SECTIONS of the bill:

(A) SECTION 2 (page 1, line 59, through page 2, line 6);

(B) SECTIONS 4, 5, 6, and 7 (page 2, lines 18-65);



- (C) SECTIONS 9, 10, 11, 12, 13, and 14 (page 3, line 8, through page 4, line 48);
- (D) SECTION 16 (page 5, lines 17-27);
- (E) SECTIONS 19, 20, 21, and 22 (page 5, line 52, through page 6, line 40);
- (F) SECTION 24 (page 6, line 48, through page 7, line 9); and
- (G) SECTION 29 (page 8, lines 38-39).

(2) In SECTION 25 of the bill, in amended Section 42.43(b), Tax Code (page 7), strike lines 14-19 and substitute the following:  
calculated at an annual rate of 9.5 ~~[that is equal to the sum of two percent and the most recent prime rate quoted and published by the Federal Reserve Board as of the first day of the month in which the refund is made, but not more than a total of eight]~~ percent, calculated from the delinquency date for the taxes until the date the refund is made.

(3) Strike SECTION 30 of the bill (page 8, line 40), and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2016.

(b) Section 42.23(i), Tax Code, as added by this Act, takes effect January 1, 2020.

(4) Renumber SECTIONS of the bill accordingly.

The amendment to **CSSB 1760** was read and was adopted by the following vote: Yeas 24, Nays 7.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti.

Nays: Ellis, Garcia, Rodríguez, Watson, West, Whitmire, Zaffirini.

Senator Bettencourt offered the following amendment to the bill:

## **Floor Amendment No. 2**

Amend **CSSB 1760** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill and cross-references to those SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 26.05(b), Tax Code, is amended to read as follows:

(b) A taxing unit may not impose property taxes in any year until the governing body has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order, depending on the method prescribed by law for adoption of a law by the governing body. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget. The vote on the ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be a record vote, and at least 60 percent of the members of the governing body must vote in favor of the ordinance, resolution, or order. A motion to adopt an ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be made in the following form: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert

percentage by which the proposed tax rate exceeds the effective tax rate) percent increase in the tax rate." If the ordinance, resolution, or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the taxing unit must:

(1) include in the ordinance, resolution, or order in type larger than the type used in any other portion of the document:

(A) the following statement: "THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE."; and

(B) if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."; and

(2) include on the home page of any Internet website operated by the unit:

(A) the following statement: "(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and

(B) if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."

The amendment to **CSSB 1760** was read.

### **POINT OF ORDER**

Senator Ellis raised a point of order that Floor Amendment No. 2 to **CSSB 1760** was not germane to the body of the bill.

### **POINT OF ORDER RULING**

The President stated that the point of order was respectfully overruled.

Question recurring on the adoption of Floor Amendment No. 2 to **CSSB 1760**, the amendment was adopted by the following vote: Yeas 22, Nays 9.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Estes, Fraser, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Schwertner, L. Taylor, V. Taylor, Uresti.

Nays: Ellis, Eltife, Garcia, Rodríguez, Seliger, Watson, West, Whitmire, Zaffirini.

On motion of Senator Creighton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 1760** as amended was passed to engrossment by the following vote: Yeas 24, Nays 7.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti.

Nays: Ellis, Garcia, Rodríguez, Watson, West, Whitmire, Zaffirini.

**COMMITTEE SUBSTITUTE**  
**SENATE BILL 1760 ON THIRD READING**

Senator Creighton moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1760** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti, Zaffirini.

Nays: Ellis, Garcia, Rodríguez, Watson, West, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 7.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti.

Nays: Ellis, Garcia, Rodríguez, Watson, West, Whitmire, Zaffirini.

**COMMITTEE SUBSTITUTE**  
**SENATE BILL 1628 ON THIRD READING**

Senator L. Taylor moved to suspend the regular order of business to take up for consideration **CSSB 1628** at this time on its third reading and final passage:

**CSSB 1628**, Relating to insurance claims and certain prohibited acts and practices in or in relation to the business of insurance; amending provisions that are or may be subject to a criminal penalty.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Huffines, Huffman, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor.

Nays: Ellis, Garcia, Hinojosa, Menéndez, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

The bill was read third time.

Senator Watson offered the following amendment to the bill:

**Floor Amendment No. 1 on Third Reading**

Amend **CSSB 1628** on third reading as follows:

(1) In added Section 541.060(c), Insurance Code (SECTION 1 of C.S.S.B. No. 1628, senate committee printing, page 1, line 28), between "claim made under an insurance policy" and "does not constitute", insert "covering real property or improvements to real property".

(2) In amended Section 542.058(b), Insurance Code (Item (3), second reading Floor Amendment No. \_\_\_\_ by Senator Larry Taylor, page 1, line 17), between "dispute" and "as to", insert "in a claim made under an insurance policy covering real property or improvements to real property".

The amendment to **CSSB 1628** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading.

On motion of Senator L. Taylor and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

**CSSB 1628** as again amended was finally passed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Huffines, Huffman, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor.

Nays: Ellis, Garcia, Hinojosa, Menéndez, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

### REASON FOR VOTE

Senator Ellis submitted the following reason for vote on **CSSB 1628**:

As this bill has moved through the process, we've heard from homeowners, small and large businesses, and even churches, all of whom have grave concerns about this bill. Just like they've said, this bill does nothing to actually lower insurance premiums, but it does create new immunity and loopholes for insurance companies to avoid responsibility.

Through all of the nuances and details of this bill, let's be clear what it does: it offers immunity to those who break the law and denies consumers the ability to hold wrongdoers accountable. It defies logic that we should offer immunity to a whole set of bad actors – no matter how dishonest or unfair they are – simply because they happen to work for an insurance company.

This bill creates loopholes in the consumer protections that we've had in law for decades. These protections strike a balance between the industry and consumers. But suddenly, we're told that unscrupulous lawyers are abusing the system and causing rates to go up, so we've got to strip those protections away.

We keep hearing how lawsuits are driving premium increases even though insurance companies have steadily raised their rates every possible year, well before litigation related to Dolly, Rita, and Ike and the recent hailstorms.

The truth is, insurance industry losses have fluctuated from year to year, but over time they remain fairly steady. The only number that is steadily increasing is premiums paid by policyholders. Consumers see premium increases while insurance companies see profit increases.

I'm glad that Sen. Watson and Sen. Taylor were able to work together to write an amendment to Sen. Taylor's amendment that limits the new bona fide immunity loophole to just property damage. But that doesn't address the fact that Section 1 of the bill creates the same enormous loophole for every type of insurance, allowing companies to abuse the system, call every claim denial a bona fide dispute, and avoid responsibility.

We've seen so many examples of insurance industry abuses, going back to Katrina and Ike and Dolly and Sandy. I can't understand why we'd want to change the laws that have protected consumers from these abuses.

This bill even criminalizes homeowners if they make a mistake during the claim process on their home. The Senate voted down my amendment yesterday that would have held adjusters and insurance company representatives to the same standard.

Why are we going to charge homeowners - who aren't engineers or contractors or insurance experts - with a Class A misdemeanor if they make a mistake but let insurance companies lie about claims and engage in bad faith without the same penalties?

I oppose this bill because it isn't a solution to the problems facing consumers. It would harm homeowners, businesses, schools, and churches and provide no relief to skyrocketing insurance premiums.

ELLIS

**SENATE RULE 11.13 SUSPENDED**  
**(Consideration of Bills in Committees)**  
**(Motion In Writing)**

Senator Hancock submitted the following Motion In Writing:

Mr. President:

I move to suspend Senate Rule 11.13 so that committees may meet during the reading and referral of bills.

HANCOCK

The Motion In Writing was read and prevailed without objection.

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet in E1.012 today.

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

Senator Birdwell moved to suspend Senate Rule 11.10(a) and Senate Rule 11.18(a) in order that the Subcommittee on Border Security might meet in the Senate Chamber and consider **SB 838** today.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to suspend the posting rules except as follows:

Nays: Watson.

### **SENATE RULES SUSPENDED (Posting Rules)**

On motion of Senator Huffman and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on State Affairs might meet and consider **SB 983** today.

### **ANNIVERSARY WISHES EXTENDED**

Senator Zaffirini was recognized and, on behalf of the Senate, extended wedding anniversary wishes to Senator Nelson and her husband, Mike.

### **CONDOLENCES EXTENDED**

The President, on behalf of the Senate, extended condolences to Glenn Hegar regarding his mother, Connie.

### **MOTION TO ADJOURN**

On motion of Senator Hancock and by unanimous consent, the Senate at 3:42 p.m. agreed to adjourn, in memory of Nelson Salinas and Connie Hegar, mother of Comptroller Glenn Hegar, upon completion of the introduction of bills and resolutions on first reading, until 11:00 a.m. Monday, May 4, 2015.

**(Senator L. Taylor in Chair)**

### **HOUSE BILLS ON FIRST READING**

The following bills received from the House were read first time and referred to the committees indicated:

- HB 181** To Committee on Education.
- HB 280** To Committee on Agriculture, Water, and Rural Affairs.
- HB 315** To Committee on Transportation.
- HB 372** To Committee on Criminal Justice.
- HB 440** To Committee on Education.
- HB 463** To Committee on Transportation.
- HB 479** To Committee on Health and Human Services.
- HB 481** To Committee on Transportation.
- HB 504** To Committee on Health and Human Services.
- HB 643** To Committee on Criminal Justice.
- HB 685** To Committee on Business and Commerce.
- HB 737** To Committee on Intergovernmental Relations.
- HB 781** To Committee on Health and Human Services.
- HB 795** To Committee on Intergovernmental Relations.
- HB 797** To Committee on Intergovernmental Relations.
- HB 801** To Committee on Agriculture, Water, and Rural Affairs.
- HB 826** To Committee on State Affairs.
- HB 906** To Committee on Veteran Affairs and Military Installations.
- HB 908** To Committee on Natural Resources and Economic Development.
- HB 978** To Committee on Transportation.
- HB 1133** To Committee on Veteran Affairs and Military Installations.
- HB 1148** To Committee on Intergovernmental Relations.

**HB 1252** To Committee on Transportation.  
**HB 1388** To Committee on State Affairs.  
**HB 1415** To Committee on Intergovernmental Relations.  
**HB 1463** To Committee on Finance.  
**HB 1546** To Committee on Criminal Justice.  
**HB 1550** To Committee on Health and Human Services.  
**HB 1704** To Committee on State Affairs.  
**HB 1740** To Committee on Administration.  
**HB 1756** To Committee on State Affairs.  
**HB 1793** To Committee on Criminal Justice.  
**HB 1912** To Committee on Business and Commerce.  
**HB 1934** To Committee on Agriculture, Water, and Rural Affairs.  
**HB 1964** To Committee on Business and Commerce.  
**HB 2033** To Committee on Intergovernmental Relations.  
**HB 2066** To Committee on Business and Commerce.  
**HB 2083** To Committee on Finance.  
**HB 2154** To Committee on State Affairs.  
**HB 2272** To Committee on Criminal Justice.  
**HB 2400** To Committee on Finance.  
**HB 2476** To Committee on Intergovernmental Relations.  
**HB 2559** To Committee on Intergovernmental Relations.  
**HB 3091** To Committee on Business and Commerce.  
**HB 3291** To Committee on Natural Resources and Economic Development.  
**HB 3315** To Committee on Business and Commerce.  
**HB 3536** To Committee on Business and Commerce.  
**HB 3741** To Committee on Business and Commerce.

**CO-AUTHOR OF SENATE BILL 272**

On motion of Senator Hancock, Senator Zaffirini will be shown as Co-author of **SB 272**.

**CO-AUTHOR OF SENATE BILL 459**

On motion of Senator Lucio, Senator Rodríguez will be shown as Co-author of **SB 459**.

**CO-AUTHOR OF SENATE BILL 1108**

On motion of Senator Lucio, Senator Fraser will be shown as Co-author of **SB 1108**.

**CO-AUTHOR OF SENATE BILL 1474**

On motion of Senator Garcia, Senator Uresti will be shown as Co-author of **SB 1474**.

**CO-AUTHORS OF SENATE BILL 1494**

On motion of Senator Uresti, Senators Rodríguez and West will be shown as Co-authors of **SB 1494**.

**CO-AUTHOR OF SENATE BILL 1735**

On motion of Senator Birdwell, Senator V. Taylor will be shown as Co-author of **SB 1735**.

**CO-AUTHOR OF SENATE BILL 1864**

On motion of Senator Burton, Senator Estes will be shown as Co-author of **SB 1864**.

**CO-AUTHOR OF SENATE BILL 1931**

On motion of Senator Garcia, Senator Zaffirini will be shown as Co-author of **SB 1931**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 667** by Zaffirini, In memory of Jose Gerardo Garcia.

**SR 670** by Lucio, In memory of Jose Luis Lucio.

**HCR 88** (Rodríguez), In memory of El Paso Constable Robert Parker White.

**Congratulatory Resolutions**

**SR 666** by Eltife, Recognizing Paul Kent McGaha on the occasion of his retirement.

**SR 668** by West, Recognizing Jaclyn Ramirez on the occasion of her graduation from The University of Texas at Austin.

**SR 669** by Lucio, Recognizing Carmelo's Ristorante Italiano of Austin.

**SR 671** by Garcia, Recognizing the citizens of Galena Park who are observing the National Day of Prayer.

**SR 672** by West, Recognizing Nathan C. Hallett on the occasion of his retirement.

**ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 3:57 p.m. adjourned, in memory of Nelson Salinas and Connie Hegar, mother of Comptroller Glenn Hegar, until 11:00 a.m. Monday, May 4, 2015.

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**APPENDIX**

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**COMMITTEE REPORTS**

The following committee reports were received by the Secretary of the Senate in the order listed:



April 30, 2015

FINANCE — **CSSB 1396**

NATURAL RESOURCES AND ECONOMIC DEVELOPMENT — **CSSB 1509**

BUSINESS AND COMMERCE — **CSSB 1652**

CRIMINAL JUSTICE — **SB 923, SB 1317, SB 1958, HB 10, CSSB 1743**

HEALTH AND HUMAN SERVICES — **CSSB 1582, HB 751**

CRIMINAL JUSTICE — **CSHB 225, CSSB 1944**

TRANSPORTATION — **SB 58, SB 1242, SB 1788, SB 1918, SB 2055, CSSB 1837, CSSB 320, CSSB 1511, CSSB 1803**

EDUCATION — **CSSB 1169**

CRIMINAL JUSTICE — **CSSB 145**

NATURAL RESOURCES AND ECONOMIC DEVELOPMENT — **HB 40, HB 975, HJR 73**

INTERGOVERNMENTAL RELATIONS — **CSSB 1363, CSSB 1679, SB 2053, SB 2059, SB 2056, SB 2044, SB 2043, SB 2026, SB 2025, SB 1365, SB 1345, CSSB 1005, SB 1002, SB 997, CSSB 839**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **CSSB 1463**

INTERGOVERNMENTAL RELATIONS — **SB 946**

NATURAL RESOURCES AND ECONOMIC DEVELOPMENT — **CSSB 208**

TRANSPORTATION — **CSSB 1875, CSSB 1424, CSSB 1919**

#### **BILLS AND RESOLUTIONS ENGROSSED**

April 29, 2015

**SB 326, SB 545, SB 632, SB 638, SB 777, SB 1171, SB 1243, SB 1280, SB 1304, SB 1305, SB 1307, SB 1576, SB 1708, SB 1821, SB 1828, SB 1964, SB 2054, SJR 30, SJR 60**

#### **BILL AND RESOLUTIONS ENROLLED**

April 29, 2015

**SB 835, SCR 17, SR 605, SR 653, SR 654, SR 655, SR 657, SR 658, SR 659, SR 660, SR 661, SR 662, SR 663, SR 664, SR 665**

#### **SENT TO GOVERNOR**

April 30, 2015

**SB 149, SB 835, SCR 17**

# SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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## ADDENDUM

(FORTY-FOURTH DAY — Thursday, April 30, 2015)

The following remarks regarding **SB 778** were ordered reduced to writing and printed in the *Senate Journal*.

**President:** Senator Seliger, you're recognized to suspend the regular order of business on Committee Substitute 778, or Senate Bill 778.

**Senator Seliger:** Thank you, Mr. President. I move to suspend the regular order of business to take up and consider the Committee Substitute to Senate Bill 778 at this time, relating to performance-based tuition. For several years we've been working to develop a proper methodology for holding our institutions accountable for increasing costs. And the Committee Substitute to Senate Bill 778 brings together the concepts of accountability and tuition by requiring institutions to prove performance if they wish to increase the cost. The bill requires the institutions of higher education to meet a majority of certain performance metrics before they are allowed to increase tuition beyond the rate of inflation, and the metrics include things like undergraduate degrees, completion, six-year graduations, four-year graduation rates, and others. Boards of regents, after collaborating with system administration and institutional presidents and provosts shall set institutional targets for each metric, and this allows boards to continue to be involved in strategic planning. If an institution achieves 98 percent of the target, this bill assumes that the target has been met and the definitions for each metric and process by which the data submitted and verified will be developed via facilitated negotiated rulemaking at the coordinating board. Finally, the coordinating board, after negotiating rulemaking will develop a definition for emergency exceptions, particularly natural disasters, to allow institutions some flexibility in the instance of hurricanes. I do have two amendments and there may be a couple of others. Mr. President, I move suspension.

**President:** Senator Ellis, for what purpose?

**Senator Ellis:** Express some, to ask a few questions.

**President:** Would you yield, Senator?

**Senator Seliger:** I do.

**Senator Ellis:** Senator, thank you. Can you give me some sense of what impact this bill would have on our various institutions, a sense of what it would mean for our flagship schools and some of our schools that don't attract necessarily the same caliber of students?

**Senator Seliger:** I think it addresses that, and all along the thought was, we don't want to have a bill that picks winners and losers or gives a school a particular advantage, and that's why we've chosen these things. In particular, if we look at the criteria: total undergraduate degrees, undergraduate degrees adjusted by six-year graduation rate, undergraduate degrees per 100 undergraduate full-time equivalents, undergraduate degrees to at-risk students, completion of 36 semester credit hours, 60 hours and 90 hours, administrative costs as a percent of total expenditures, average length of time to earn a degree, the four- and six-year graduation rates, and I think that's all 11 of them—

**Senator Ellis:** So—

**Senator Seliger:** —but it was designed so that colleges of those 11 will pick the six on which they wish their performance to be based, and in talking to the institutions, we feel this is a fair representation for all of them.

**Senator Ellis:** —so, Senator, do you know whether or not our various institutions of higher education are supportive of the bill or do they have problems with it? I wasn't at the hearing, but what kind of reaction did you get?

**Senator Seliger:** The reaction has been very positive. Even before we picked those specific criteria, which we discussed with the institutions and all the input I have. Are there some things, would the institutions change? Sure. We worry that the institutions would like to make the hurdles lower, even though they've not specifically asked that, but, in general, the institutions have been supportive of the bill and the philosophy behind the bill.

**Senator Ellis:** So, is it your thought, Senator, that this bill is going to lower the high cost of tuition we have in Texas, or is that what you're trying to impact, or not?

**Senator Seliger:** The goal is to do a couple of things. One is to give, to ensure that boards of regents have the sort of discretion that they need to run those institutions from all points of view. The other thing is to ensure, and there's been all the discussion debate about tuition for all these years, that if an institution wants to charge more, they must provide more. Their performance must justify that.

**Senator Ellis:** So, you don't think this will really have an impact on lowering the, you don't think this bill will lower the cost of tuition. You just think it'll make it more difficult for some institutions to raise tuition as opposed to others, but you don't, your intent here is not to try and lower the cost of getting a college education?

**Senator Seliger:** It doesn't address the overall cost to get an education. We do that other ways, Senator, quite frankly, as we looked at things like formula funding. This is designed as, if the institution wants more money, wants to raise more money, they have to provide their student body with more.

**Senator Ellis:** And, Senator, will your bill do anything to help make the case for the state putting more general revenue into our institutions of higher education? Which, you know, is part of the reason why many of the schools say that they have had to lower, they've had to raise the cost of tuition because over the years, because of various challenges, the state has not put as much money into higher ed as we did, say, prior to 2003 when it was deregulated. So, does this bill in any way, in your judgment, help make the case to put more of our state dollars into higher ed?

**Senator Seliger:** I think the case, Senator Ellis, is so well made on so many levels. It was once said by a university president to me that at one point those institutions were state-supported, and then they were state-aided, and now they are state-located. Yes, I think there's a very good case because it is a real value for this Legislature and this state to educate as many of our citizens as we can and to make them as well-educated as we can. And that's what we do in funding. Clearly, the more state support through general appropriation that goes to those institutions, the less need there is to, or the less pressure is, to raise tuition to meet their missions wherever they choose them to be.

**Senator Ellis:** Do you know, Mr. Chairman, if any other state uses this approach? I guess I just want to get some sense of whether or not anybody else does it, or maybe the thought process would be the second question on how you came up with this design. What was the process for coming up with these 12 or 13 variables here that I see? I guess I see nine, these performance measures that you, that these 11 measures that you put in, so one, does anybody else do this, and then maybe the thought process of your coming up with this concept?

**Senator Seliger:** I am not advised of specific states that this, have this sort of criteria, or this many and varied criteria. These are largely things that, in discussing things with the Higher Education Coordinating Board and chancellors and presidents, that, that we largely came up with. I'm sure some of the references there at the other institutions, but I'm not advised.

**Senator Ellis:** Okay, did, did you see the amendments that I sent out?

**Senator Seliger:** I did.

**Senator Ellis:** Okay. I do want to say how much I appreciate your willingness to give me a hearing on my bill, which would simply roll back the clock and have the Legislature make the decision on setting tuition rates, but not roll back the tuition to where it was, but just going forward, to have us make that decision so people can express their approval or disapproval with what we do. And I appreciate your willingness to have a hearing on Senator Schwertner's bill on the concept as well. I am concerned that when we deregulated tuition in this Legislature in 2003, the Texas Tomorrow Fund program essentially had to be shut off, and I know that, although I voted against tuition deregulation, I quickly put both of my remaining kids in the Texas Tomorrow program. If anybody ever went and did a study, I'm willing to bet most people who had some sense of what the markets would do and what would happen to tuition, they did it as well. For my older child, I did the private school program, not knowing where she'd go to school, but even with my limited knowledge of economics, I knew that once it was deregulated, it was a pretty good deal to buy

into the public university program. So, even if these last two kids go to school out of the State of Texas, the tuition in Texas is going to skyrocket despite what sponsors of that measure was saying on the floor. I knew it had a direct impact on the Texas Tomorrow Fund, and I told as many—we didn't have the Internet, we didn't have Twitter, and whatever you call it, Facebook, if we did, I didn't know how to use it, or I would've put it out to tell folks to sign in—but it shut down that program, as you know, shortly after that. One of the challenges we got to deal with, is to figure out how to pay for the people who are in it. And, of course, we know how tuition went up and the very people who voted for it are some of the ones who protest the loudest about the cost of tuition. The other downside to deregulating tuition is that the Texas Tomorrow Fund, I mean the TEXAS Grants program, something I'm very proud of—working with Senator Wentworth back in those days to get that bill passed, to me, is, you know, a legacy I'd like to be remembered for, but they don't put your name on the, on the grant so nobody knows about that, usually they look at buildings that people get up, at university—but that program had to be reduced, and we've never really fully funded it because what we do now is we pay a capped-off amount, because we couldn't afford to keep paying for so many kids to go. I got concerns, Senator, about the way you do this because it is untested. And I may be wrong. I can't vote for it today, other than if my amendments get on, then I'll vote on, on the back side because I've got some amendments that I think really go directly to the issue and they've been tested. We've seen them done that way before. With yours, it seems to be very well thought out, but it is an untested model and it's the kind of thing, I think, instead of us moving in this direction now, without the thought process, I think we may look back and regret it. So, that's my problem with this concept you're using. It would make me feel a little better if some other state had tried it, or if we commissioned some big foundation, sort of like on a community college issue. I'm glad the Houston Endowment from my district put up \$400,000 to go study the issue of letting community colleges do four-year degrees as a way of saving money. Maybe that's an amendment I should have tried to add on to this one as well, because that would go to the issue of letting our kids get an education a lot cheaper. But I'm just worried that your bill won't help us with this issue of probably the second largest source of debt for most people in America now is college debt. And it may not be long, I don't want to get on that truth meter, it may not be long, but I predict at some point, as opposed to owning a home being the largest source of debt, paying for their home for most Americans, will be that cost of a college tuition. But look, I applaud your trying to do something, but I just think a more straightforward approach would be the one that I'm suggesting. You know, I have my concerns about Senator Schwertner's, but to be honest with you, I think his might get there a little better than this one, than this one would. I don't know if he's going to offer an amendment or not, but I do appreciate your work. I had to say that because I wanted to talk to you about this the other night when I went to visit you, but I didn't want you to think I was over there lobbying on my bills while you were in the hospital. But I do appreciate your work on this, Mr. Chairman.

**Senator Seliger:** Thank you, Senator. I hope my discussion today is a little more cogent and comprehensible than my words were the other night. You draw attention to one of the most important issues around higher education today, and that is the

question of debt. But it must be viewed in the proper context, I think, when you look at the average student's debt, about, I think, around 40 percent of that is room and board. And a lot of grants and things like that can be spent on anything, not just tuition and fees. One of the things that we find out for young people, I tell young people all the time, that not very long after they've graduated from college, they're going to have three kinds of debt, well, a little more than that. They're going to have a home, and they're going to have debt for a car or two. They are going to have debt, possibly, for an RV or a bass boat, hopefully not a motorcycle, and they're going to have, probably, the least supportable debt one could have, and that's credit card. Because who in their right mind borrows money at 18 percent or more? And so, the discussion you bring up of debt, I think is a very, very important one, but we have to view it in the proper context.

**Senator Ellis:** Well, you know, I sometimes, I think, Mr. Chairman, I think historians still consider the greatest transference of wealth in the history of this country would be when the GI Bill passed and when the federal government got in the business of making college grants available for people to go to school. And now, unfortunately, it was at a time when most things in our society were segregated. So, by that I mean, when this great transference of debt was created in America, and we created the great middle class that we are the envy of the world for now, it was at a time when certain people couldn't get those houses because you could only live in certain neighborhoods and if there was housing in those neighborhoods, you qualified. And certain people couldn't get those grants to go to college unless those schools would accept you. And, unfortunately, by and large, many of those schools in our part of the country didn't fall in that category, and then there were caps on how many could get in in other schools around the country. But look, I know the only reason that I'm here and a good number of us are here where we are today is because of access to a college education. And in my case, I didn't have the good sense to stay in Texas, but I had a scholarship, packed up and went to New Orleans, so, great Catholic school, and Rod Paige, of all people, gave me a scholarship back when he was in the athletic business, to come back to Texas Southern and go to school there. But clearly, that was my gateway to get out of the neighborhood I grew up in and now have the privilege of representing it now. And I think that's a real tragedy in Texas, because we have made a college education unaffordable for far too many Texans, and I'm going to offer an amendment that I hope really goes directly at that issue. And I'm going to have a second one that I hope helps makes the case that I do firmly believe we ought to put more general revenue into our institutions of higher education and we ought to not be in the business of picking winners and losers. And I think, I may be wrong, if your bill passes in this form, this criteria seems to do that, in my opinion, and I may be totally wrong, and I will admit that. But it's not one that any other state has tried, it's a novel concept. It may work. But with the cost of a college education and so few Texans are getting a high school diploma and going to college now, I'm really worried that we ought to not be the place where you experiment with this. I prefer it to go back to what brought us to where we are.

**Senator Seliger:** We may not agree on one of your amendments, but we agree on the principle. The more money that we put in here and we have control, the more money that we put in here, essentially into formula funding, the less tuition and fees need to cost, the less young people will need debt. We do not agree, we don't, we do not disagree on that principle.

**Senator Ellis:** Thank you.

**Senator Seliger:** Thank you, Senator.

**President:** Senator Zaffirini, for what purpose?

**Senator Zaffirini:** To ask a question of the author of the bill.

**President:** Senator Seliger.

**Senator Seliger:** I do.

**Senator Zaffirini:** Senator Seliger, I remember when you filed this bill, there was a lot of concern, and the universities were really upset about it, but I haven't heard anything about them lately. What did you do in the committee substitute that seemed to calm everybody down?

**Senator Seliger:** It was committee substitute, we put down specifically what the, what the criteria were and offered a broader range of criteria. If there's some specifically that you're referring to, you might help me a little bit, but I think—

**Senator Zaffirini:** No, no.

**Senator Seliger:** —those were the biggest things in the committee substitute.

**Senator Zaffirini:** But they're not objecting to it at this point, or they're not concerned about it anymore?

**Senator Seliger:** Institutions, since they had seen state support increase over the last 20 years, yeah, they're concerned with about every element. And you probably heard every one of those reservations out there.

**Senator Zaffirini:** Well, I heard it earlier. I have not heard anything recently, and that's why I figured you must've changed the committee substitute somehow to appease all those people.

**Senator Seliger:** We worked with the institutions to develop the bill, at the same time pointing out that there should be a pretty good size hurdle. Certainly, given the sentiment in this body that if you want to raise tuition, then people ought to expect an increase on what they're going to get for that education or tuition.

**Senator Zaffirini:** I've always said, and you've heard me say repeatedly, that the main reason that tuition has increased is that we have not funded higher education at an adequate level. Did you consider at any point tying in tuition increases to the level of state appropriations for higher education?

**Senator Seliger:** I didn't because it, certainly I think it takes away some of the discretion of this body. That wasn't my point to do so. I think that's an independent, sort of an independent association based upon the Finance Committee's determinations on what the budget ought to be. I have been, you certainly have been,

as has Senator West and Senator Ellis, staunch advocates for putting more funding into formula because it does just that. It keeps tuition and things like that. Those are the choices we make. I've also been a staunch advocate of increases of the basic allotment in public schools and transportation. All of those are the choices that we make.

**Senator Zaffirini:** Well, I remember in 2009, and you may remember, we passed a bill 31 to 0 that tied in tuition increases to the level of state appropriations, and we passed it 31-0, but it died in the House. So, I had wondered if you perhaps revisited that concept.

**Senator Seliger:** I haven't because the impression I've gotten from the people I talk to is that such a measure here would fare no better, doesn't make it a bad idea, it just would fare no better.

**Senator Zaffirini:** On a totally different area of questioning, I know you expect some amendments, but I'm not aware of what those amendments may be. Are there some amendments that you're going to accept that we should know about, or are there others—

**Senator Seliger:** There are.

**Senator Zaffirini:** —that you will fight?

**Senator Seliger:** Yes, a couple of amendments that I have, been brought by Senator Schwertner, an amendment to my first or second amendment to be offered by Senator Watson.

**Senator Zaffirini:** Are those amendments that you're going to accept or that you're concerned about?

**Senator Seliger:** At this moment, those are the ones that I had plans to accept because we've had time to look over them and vet them and do research, and I think that they probably make it a better bill.

**Senator Zaffirini:** Do you know of any other amendments or expect any?

**Senator Seliger:** I have not heard of any more other than just being advised by Senator Ellis.

**Senator Zaffirini:** What if someone offers an amendment that would repeal deregulation? What would be your stand on that amendment?

**Senator Seliger:** It is not my plan to repeal deregulation now, it's to regulate thoughtfully and to regulate with our standard, not simply that everything costs less but that the consumers get more for the monies that they pay into higher education.

**Senator Zaffirini:** Thank you, Senator Seliger. Thank you for your leadership in higher education. I appreciate it.

**Senator Seliger:** As always, thank you for your interest and all the help you've given me.

**Senator Zaffirini:** Thank you.

**President:** Senator West, for what purpose?



**Senator West:** Question of the author.

**President:** Do you yield, Senator?

**Senator Seliger:** As soon as I get turned around, I would love to yield.

**President:** I was giving you as much time as you needed.

**Senator Seliger:** Thank you.

**Senator West:** Senator, we had a discussion yesterday about the different targets, if you will, or the different considerations that institutions are supposed to be utilizing, and they're set out, they're, obviously, the performance measures set out here in the bill. And one of them is something that I want to visit with you about to determine whether or not it should be a requirement as one of the six. And that's, as it relates to the success of at-risk students, the total number of graduates or degrees awarded by the institution to at-risk students. And the question in my mind, should that be a requirement, you still leave it as permissive, I mean, given everything we talk about in higher education, and how that should be a high priority. And you've heard that as Chairman. I heard it when I was Chairman some 10 years ago. Why shouldn't that be a requirement as opposed to being permissive?

**Senator Seliger:** I really hadn't given it a lot of thought.

**Senator West:** Well, I thought after I test', after our conversation yesterday, you'd given it a lot of thought.

**Senator Seliger:** Yes, and it prompted me to give it a good deal of thought. Clearly, I think it's an important measure, and I think it's an important value. And that's why it was, once we actually set out to compile the list, that this go on this list. It is an important measure. Is it so important that it above all the other measures should have some sort of primacy? I think because he is a new Member, it should be perfectly reasonable to pick on Senator Bettencourt, who didn't know he was going to get picked on at the moment, but he's a good example of someone who'd say the most responsible administration would be to make one of those six the cost of administration as a percentage of overall cost. It is enormously important. And there's also a huge diversity on the performance of those areas of certain institutions. Well, why this measure rather than that measure? So, rather than pick one out to be more important than all the rest, they're all on the list because they all are important.

**Senator West:** And so, you're saying there's no one more important than the other?

**Senator Seliger:** No, I think if you look at that list of 11 together, they make a very high standard, but I'd necessarily find one more important than the other.

**Senator West:** Well, it's going to be interesting to see. I'm sorry, and I don't recall, read the bill, as it relates to when will this go into effect. Do you recall?

**Senator Seliger:** I think the academic year 2017, 2018, I'm sorry. We added another year.

**Senator West:** 20—

**Senator Seliger:** 2018.

**Senator West:** —so this goes into effect 2018, so there's no immediate impact?

**Senator Seliger:** No.

**Senator West:** Okay. So, between, assuming the bill is passed in 2015, in 2018, what are we doing? What will we do in preparation for 2018?

**Senator Seliger:** In my amendment, to set down the exact tuition increases that can be contemplated by the institutions, Senator Schwertner has an amendment to limit those increases in the interim before the full scale takes place.

**Senator West:** Okay, but as it relates to the institutions determining, that, that's as it relates to tuition. I'm talking about as it relates to the performance measures. What will institutions be required to do in preparation of determining?

**Senator Seliger:** The performance measures will be in place, but the increases will be limited under this amendment to one percent.

**Senator West:** To one percent.

**Senator Seliger:** Yes.

**Senator West:** Okay, well, it's going to be interesting to see that as the institutions look at these different measures, exactly what targets they're going to be utilizing for purposes of compliance with this. And so, I would hope that you would continue to work with me to make certain that under, or at least at-risk students, the graduation rate of at-risk students is very high on their list of permissive targets, if you will, in order to comply with this particular bill.

**Senator Seliger:** I would consider it the greatest privilege to be able to work with you because I know the depth and degree of your interest and concern in this. One of the things that I am most interested to see is, if you look at the great diversity in our institutions from University of Texas at Austin to Sul Ross, from Texas A&M to, I'm going to use Texas Southern since it's not a member of the system, to see to it that we have set up a matrix so that every institution, by whatever formula they chose, that this will serve all of them and their needs, as well as challenge them to do a better job every day.

**Senator West:** Well, and you ask yourself, why is this important? I mean, like in Education this morning, we're talking about Pre-K and we see all over television, all the things that are going on in Baltimore and Ferguson and a lot of the inner cities, we're always talking about education. We just continue to talk about, as opposed to really do anything about it. And the reality is, is that everyone says but for these students being able to really get a good education, they wouldn't be in the situation they're in. And so, and I concur with that. That's not a Black issue or Hispanic issue or White issue. The issue is an educated workforce issue. And so, I'm hoping, that as we spend tax dollars, not only on Pre-K, on changes to our public education system, but we also make certain that higher education institutions are held accountable also as it relates to at-risk students. Because as you well know, when we begin to look at our public school system, the majority of the kids in the public school system are on free and reduced lunch. Those are the kids that are going to be coming through the pipeline, over five million kids in our public school system. They're going to be coming through the pipeline. We, as Texans, or future generation of Texans, will be depending upon them in order to provide the leadership and also the workforce of the

future. And I need, I want to make certain that we have a discussion about, quote, unquote, these performance measures, and the institutions that we support with public dollars are put on notice that at least one Senator, this Senator, God-willing and the creek don't rise, will be looking at this and monitoring it very closely for implementation and the selection of these performance measures that institutions will have, quote, unquote, the option to make a determination as to which ones they want to comply with for purposes of compliance with this particular legislation. You agree with that?

**Senator Seliger:** Oh, I agree. One of the things I may ask institutions is, as we go forward, to develop the sort of recordkeeping and metrics so we know exactly what it's doing in every institution. And I think that's very important. It's a very, very long and important discussion when we talk about Pre-K and early education, the values of it. I think most college presidents and chancellors would tell you that the earlier children start to learn, the better prepared they are for college and for post-secondary or for post-educational success.

**Senator West:** Well, that's, and I was listening to the debate between you and Senator Ellis, and he's correct. We know, and I know Senator Zaffirni has been a champion, as well as many others, that the prime determinative factor as it relates to getting a higher education is financial aid.

**Senator Seliger:** Right.

**Senator West:** Okay, and I'm hoping that we keep, we did good work, in terms of putting money in the budget over here in the Senate for TEXAS Grants. And I'm hoping that we keep those dollars in there. I know we put more in than the House put in, but hopefully, the House, at least on that issue, will see it as a very important decision made by the Senate. And so, again, I know that we have some amendments on this. I'll work with Senator Schwertner, and I look forward to further debate on this particular bill. Thank you.

**Senator Seliger:** Thank you, Senator West. You and I were absolutely correct. We were not ultimately successful, but talking about the importance of those TEXAS Grants, and I'm deeply appreciative for the Finance Committee and the Senate for increasing the level of TEXAS Grants in the budget, and we have gone to almost 100 percent coverage, at \$5,000, and I know that the effort we thought, what a really good target would be, was 100 percent coverage at fifty-three hundred in the next interim, and I look forward to continue to working with you on that, because I know you're willing.

**President:** Members, there's a motion to suspend the regular order of business. Members, any objection? Hearing none, the rules are suspended. Chair now lays out on second reading, Committee Substitute for Senate 78. Secretary, read the caption.

**Secretary of the Senate:** Committee Substitute to Senate Bill 778, relating to performance-based tuition limitations for certain public institutions of higher education.

**President:** Members, there's an amendment, Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 1 by Seliger.

**President:** Senator, you're recognized.

**Senator Seliger:** Thank you, Mr. President. Members, my first floor amendment to the Committee Substitute to Senate Bill 778 would cap the increases in tuition at five percent above the rate of inflation. While most institutions have not increased tuition by this much on a year-to-year basis, we did not want to leave the impression that if they were successful in meeting their targets that it was open season on tuition increase, which I believe is the impression that many people had on, that what happened with deregulation in 2003. I move adoption.

**President:** Members, we have an amendment to the amendment. Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 2 by Schwertner, amending Floor Amendment No. 1.

**President:** Senator Schwertner, you're recognized on your amendment to the amendment.

**Senator Schwertner:** Thank you, Mr. President. Members, this is a very important bill, and I'd ask you to pay attention to the various amendments to this bill. This bill is about performance metrics and affordability and access to higher education here in Texas. This is an issue that a number of people on this floor worked on, including, of course, Senator Seliger, and I thank him very much for his leadership, but, also, Senator Zaffirini and Senator Ellis and Senator West, as you heard them speak earlier. The amendment before you, the amendment to the amendment, further tightens down the amount that higher education—

**President:** Excuse me, Senator. Excuse me. Could we have quiet, please, in the Chamber? Thank you.

**Senator Schwertner:** The amendment to the amendment, thank you, Mr. President, before you further tightens down the amount that higher education institutions can raise their designated tuition, the amount set by boards of regents if they meet these performance metrics as outlined in this bill, and the proposed amount in the original amendment is inflation plus five percent. This amendment to the amendment, which is acceptable to the author, changes that to inflation plus three percent. That is still what I feel is the best route which I would like, inflation. But working with Senator Seliger and other Members of this body, we came to a compromise of inflation plus three percent when institutions of higher education meet their performance metrics. Members, the citizens of Texas expect quality and performance and excellence in our public institutions of higher education, but they also affect affordability. As a state, we understand that an educated workforce drives our economy and is critical for the future Texas, future economy of Texas. The cost of college education, as Senator Ellis pointed out, has simply skyrocketed to where our students are either priced out of higher education altogether or required to take out exorbitant and burdensome student loans to finance it. Student loans, as Senator Ellis pointed out, now represent the second-highest source of debt nationally, surpassing credit card debt and second only to mortgages. Middle class families and their children are being priced out of the American dream and the dream of sending their children to college. This bill is a good first step. It puts in place performance metrics. It also limits the amount that higher

education can raise tuition if they meet those performance metrics. This amendment to the amendment which I am offering today further tightens down the amount they can raise to inflation plus three percent. And I believe it is acceptable to Senator Seliger.

**President:** Senator Seliger on the amendment to your amendment.

**Senator Seliger:** The amendment to the amendment is acceptable to the author of the amendment and the bill.

**President:** Senator Zaffirini, for what purpose?

**Senator Zaffirini:** For a question to the author of the amendment to the amendment.

**President:** Do you yield, Senator Schwertner?

**Senator Schwertner:** Certainly.

**Senator Zaffirini:** Thank you, Senator Schwertner. As you worked on this amendment and on the amendment to the amendment, was there any discussion of the impact that either the amendment or the amendment to the amendment would have on excellence in higher education?

**Senator Schwertner:** On, on Texans, or on—

**Senator Zaffirini:** On excellence.

**Senator Schwertner:** My concern with working with Senator Seliger and on these amendments was access to affordable higher education and what it would do to the families and children in Texas that want to pursue the dream of a college education. That was my underlying goal is to not price out students that want to go to college.

**Senator Zaffirini:** And I share that.

**Senator Schwertner:** And we're, unfortunately, the policy of deregulation has set that in motion to where affordability has become a critical piece of access here in Texas.

**Senator Zaffirini:** And I agree. I'm very concerned. I share your concern and Senator Seliger's and the concerns of other Members regarding accessibility and affordability and accountability, but I believe very strongly that we should always address those issues in light of excellence in higher education and their impact on it. Because if we don't fund higher education adequately, if this Legislature does not fund higher education at the level it needs to pursue excellence and then we limit that tuition, we have a problem. The money has to come from somewhere. So, I'm hoping that you being on the conference committee, working with your fellow conferees, that this legislation will pass, that you will point out the impact of this particular piece of legislation and others, and therefore be as persuasive as you possibly can to ensure that we fund higher education at the highest level possible because excellence is expensive.

**Senator Schwertner:** I agree with you. We should expect excellence in both education and research, but we should also expect affordability and access. What good is a institution of higher education if the doors are locked because they cannot afford to get into them?

**Senator Zaffirini:** Right, but then who wants a cheap, cruddy education? So, thank you, Senator.

**Senator Schwertner:** Thank you, Senator.

**President:** Members, the motion is on the amendment to the amendment, which is acceptable by the author. Is there any objection? The amendment to the amendment is acceptable. Members, the motion is now on the amendment by Senator Seliger, is there any objection? The amendment is acceptable. The amendment passes, and it's acceptable. Members, we have another amendment. Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 3 by Seliger.

**President:** Senator Seliger, you're recognized.

**Senator Seliger:** Thank you, Mr. President. Members, this amendment clarifies that the Texas Higher Education Coordinating Board via facilitated, negotiated, rulemaking with the institutions shall develop the standards by which the targets are set, with a specific focus on ensuring institutional improvement on the metrics. This will ensure that the target set by the board of regents focus on improvement. The reason for this amendment is to ensure that the requirements were rigorous ones, and they would require institutions to stretch and really provide more as they ask their students for more money. I move adoption to the floor amendment.

**President:** We have an amendment to this amendment, Senator Seliger. Secretary will read the amendment to the amendment.

**Secretary of the Senate:** Floor Amendment No. 4, amending Floor Amendment No. 3.

**President:** Senator Watson, you're recognized on your amendment to the amendment.

**Senator Watson:** Thank you, very much, Mr. President. Members, this floor amendment builds on Chairman Seliger's good work on this bill and on his amendment. As we heard, Chairman Seliger's amendment requires the Texas Higher Education Coordinating Board to host negotiated rulemaking to develop the standards for governing boards to use in setting target levels for each of the bill's performance metrics. What this amendment would do is it would also further tighten this. This amendment to the amendment would require that the university governing boards shall adhere to these standards in setting the performance target levels for their institutions. I believe the amendment to the amendment is acceptable to the author, and I move adoption.

**President:** Senator Seliger, you're recognized.

**Senator Seliger:** This amendment is acceptable to the author.

**President:** Members, the motion is on the amendment to the amendment, acceptable to the author. Any objection? Hearing none, the amendment to the amendment is acceptable and passes. Now, the motion is on the amendment by Senator Seliger,

Amendment No. 3 is the motion we're voting on. Is there any objection? Hearing none, Amendment No. 3 is adopted. Members, we have an amendment. Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 5 by Schwertner and West.

**President:** Senator West and Senator Schwertner, this is a joint amendment. Do you wish to speak on it or Senator Schwertner? Senator Schwertner, you're recognized.

**Senator Schwertner:** Thank you, Mr. President. Mr. President and Members, this bill does not go into full effect until after the 2017-18 academic year. I've worked with Senator West and Senator Seliger, and I believe this amendment also is acceptable. But for the timeframe between, over the next two academic cycles, this amendment would limit tuition increases to inflation plus one percent for the next two academic cycles. And I believe it is acceptable to the amendment. I'm proud to have the support of Senator West on this amendment and would yield to Senator West, if he would like to say any words.

**Senator West:** Thank you, thank you very much, Senator Schwertner.

**President:** Senator West, you're recognized.

**Senator West:** Thank you, Mr. President. Thank you, Senator Schwertner, for yielding and, Senator Seliger, for working with us on this. You know, again, if I had my way we would make certain that the Legislature set tuition in the State of Texas, but that's not the way it is today. But I think this moves in the right direction as it relates to bringing a little bit more responsibility, if you will, in terms of the tuition that's charged, probably many of these students that are sitting up here. And so, we need to make certain, even though they look like they may be in about the sixth, let's see, fifth, fourth and fifth grade, probably. They look like fourth and fifth graders. That this particular bill will, hopefully, benefit them down the road as we continue to have this discussion about how much they're going to have to pay in terms of tuition and fees, as they provide the future workforce, preparation of the future workforce for the State of Texas. So, I'm glad to join this as a co-author.

**President:** Members, the motion is on the amendment to the amendment. Senator Seliger, is it acceptable?

**Senator Seliger:** Is this an amendment to an amendment or just an—

**President:** I'm sorry, no, it is not—

**Senator Seliger:** —amendment to the bill?

**President:** —it's an amendment. It's Senator Schwertner and Senator West's amendment.

**Senator Seliger:** The amendment is acceptable to the author.

**President:** Members, any questions? Hearing none, amendment is adopted. Members, there's an amendment. Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 6 by Ellis.

**President:** Senator Ellis, you're recognized on your amendment. Yes, Sir, this is your amendment.

**Senator Ellis:** Thank you. Let me see which one, I have two, Mr. President. Yes, Sir, Mr. President, Members, this amendment simply indexes the TEXAS Grant funding to inflation. Since we seem content, unfortunately, for whatever reason, to allow tuition to grow, in some of these institutions it may be in perpetuity, although the amendment offered by my distinguished colleague does have the ability of reining it in a bit. Obviously, all of us have a concern whether or not they will take that as the new floor. We hope that they won't. But what this does is, simply, create the next step to help our students be able to afford the tuition, whatever it costs. Long term, I fear that schools that already do well, The University of Texas at Austin and A&M come to mind, will find it easier to meet the metrics under Chairman Seliger's bill and that tuition may possibly go higher under that formula. That will make it even more difficult than it is already for hardworking Texas families to afford the cost of higher education. Schools that serve a population of first-generation students and students whose families are unable to contribute as much as they'd like towards their child's education, those schools will likely have a harder time meeting the metrics in Senate Bill 778, so that tuition will be lower. The net effect is a class of high performing, more expensive schools and a class of lower performing, less expensive schools. I don't want to price working families out of high performing schools any more than they already are. So, if we're going to index, in any way, tuition to inflation, I think it only makes sense that we also index funding for our premier student financial aid program. As you all know, this is the largest state-funded student financial aid program in the country. It has been tremendously successful over the years, but it really will amount to a drop in the bucket if tuition continues to go up, but we don't make sure we're doing something to make the scholarships that are available, the grants that are available to our first-generation students, in particular, something that will help them. We already don't pay the full ride of tuition with TEXAS Grants because we deregulated tuition. But since it appears as though we're moving towards a system of indexing the cost of a college education inflation, I think it only makes sense and is only fair if we also index the aid that we provide to our students to inflation as well. And I hope it is acceptable to the author.

**Senator Seliger:** It is admired if not acceptable, Senator Ellis, because TEXAS Grants are enormously important and enormously valuable. But this bill is not about TEXAS Grants, and I feel that this amendment would not be germane to the bill. It also ties the hands of the Legislature that every two years has to go up and stand up for those students, advocate, appropriate money for those TEXAS Grants, and I feel that that's also appropriate. And so, it's with great respect to my colleague that I move to table the amendment.

**President:** Member, you're recognized, Members, there's a move to table, Senator Ellis to close.

**Senator Ellis:** Members, it's a real straightforward decision that you have to make. You just voted on a bill that we had a discussion about. We're using a fairly novel approach to come up with guidelines on how you set tuition. I don't know if it will work or not, and I think I laid that out pretty clearly. It is truly novel, nobody else does it. An amendment was added to index the cost of tuition, a rate at which tuition can go up, to inflation. Now you know we don't index what the professors make, what the



president makes, we don't index anything else at those institutions to inflation, but we are going to index what they can charge our children to go to college, as Senator Schwertner said, very eloquently, the second largest source of debt for our people in Texas, all of our constituents. And so, I'm simply asking that if we're going to index the cost of an education to inflation, we ought to index what we put in through our state-funded scholarship program to inflation as well. So, I hope you'll take a deep breath and think about it. And I hope that you will vote against the Chairman's motion to table.

**President:** Members, the motion is to table. The Secretary will call the roll.

**Secretary of the Senate:** Bettencourt. Birdwell. Burton. Campbell. Creighton. Ellis. Eltife. Estes. Fraser. Garcia. Hall. Hancock. Hinojosa. Huffines. Huffman. Kolkhorst. Lucio. Menéndez. Nelson. Nichols. Perry. Rodríguez. Schwertner. Seliger. Taylor of Galveston. Taylor of Collin. Uresti. Watson. West. Whitmire. Zaffirini.

**President:** There being 19 ayes and 12 nays, the motion to table prevails. There is an amendment, Members. The Secretary will read the amendment. Senator Ellis, you're, I'm sorry.

**Secretary of the Senate:** Floor Amendment No. 7.

**President:** Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 7 by Ellis.

**President:** Senator Ellis, you're recognized.

**Senator Ellis:** Thank you, Mr. President and Members. Members, I'm pleased that this last vote was not along partisan lines because this really is not a partisan issue. In 2003, facing one of the worst budget situations in the history of Texas, a bill came up that had nothing to do with deregulating tuition. It was one of those bills that had a broad caption, the ones I look for, particularly in the new Texas. I love broad captions. That bill would not have seen the light of day in this Senate—2003, if you roll back the clock in history, it was a tough year. Members of the House broke the quorum, and they went to some-odd place in Oklahoma. Can't remember the name. Ardmore, they went to Ardmore, Oklahoma, to break the quorum over the issue of redistricting. In the Senate there was a fear that maybe some of these old Senators would break the quorum again. There was a ethics bill up, Senator Taylor, and can you imagine who was carrying the ethics bill? Mr. Ethics himself. And we got in a heated discussion after the conference committee agreed on the language in that bill. And then the Governor's office got involved, because they were concerned about ethics. And that bill was coming up on the calendar, so I threatened to filibuster and blow up the session over the bill that language is going to be added to do tuition de-reg. And it was really as a way of forcing the issue on my ethics bill. We thought, on my side of the aisle, the play was to drag us back into special session on ethics, so if the Democrats broke the quorum, it was because we were unethical as opposed to the issue of redistricting. That's really what happened. And then we had a meeting of the minds, the Speaker came over back here, and the Lieutenant Governor was back there, the Governor came in, and we agreed on the ethics bill, and it zipped out of here. And I was having so much fun getting all that attention. Then I decided, well, I think I'll

just filibuster that bill anyway. And then, you know, our regents are not supposed to lobby, so they had a dear friend of mine call me, whose name I won't, I remember but I won't mention on the floor of this Senate, and said he was watching the Senate proceedings on the Internet and wondered what was going on because university people couldn't admit they found one of my dear friends to call me. And I said, you don't even know how to get on the Internet, and then I know you couldn't find the station to figure out what we're doing on the Senate floor. Who put you up to call? It was to get me to back down on filibustering the bill, I'd agree not to filibuster to get my ethics bill out. Look, we were broke in 2003, and the only way the institutions of higher education could get the money that they needed and, quite frankly, the money that they deserved, was to deregulate tuition. Senator Zaffirini, you and I don't disagree on a lot of issues, but I disagreed on that issue back then. I voted no. A lot of Members held their breath and voted for that bill. Roll the clock forward, it was only a couple of sessions later in 2005, Mr. Chairman, one of your predecessors, Chairwoman Shapiro, had a bill up. Whatever the Committee Substitute to Senate Bill 1228 did, I have no earthly idea, but it had a broad caption. I offered an amendment, as I'm offering today, to put the State of Texas back where it was in 2003, the same system that created The University of Texas and the same system that created Texas A&M University, same system that created all of the institutions of higher education across the state. And I got the amendment on. It just repealed it. Look, our predecessors made tough decisions. They cast hard votes on whether or not they had to do dreadful things that could get them defeated to create the great institutions that we have in Texas today, including my alma mater, UT, that I'm very proud of. If they did it, we ought to be able to do it. And people who occupy these chairs after us ought to be able to do it. We ought to not continue to saddle the next generation of Texans with unbearable debt because our predecessors didn't do it to us, and that's what this amendment does. I want to remind you what that vote was. I'm not going to call out the ones who voted on the other side, because they might have been in the lounge or busy anyway. Barrientos voted with me, Brimer, Deuell, Gallegos, Chris Harris—Mr. Happy, easygoing, good-attitude guy himself voted with me. Lucio, you voted with me. Frank Madla, may he rest in peace. Chairwoman Nelson voted with me. Chairman Ogden voted with me. Shapleigh voted with me. Staples voted with me. Van de Putte voted with me. Wentworth voted with me. West voted with me. Whitmire voted with me. Williams voted with me. They voted right. They voted for their constituents. It was a mistake to deregulate tuition in 2003. And I told my friends in higher ed, you ought to be careful what you ask for because you might get it. You're going to be in a position where you still can't raise tuition enough to fund your needs, and then you're going to have the people that you go to and ask for the money saying, you have a source of revenue. You take the heat by yourself, and then we all claim we all had nothing to do with it. We are the reason college education for far too many Texans is unaffordable. So, I'm going to ask you to vote with me, take a leap of faith. Look, we have the money, and you know we have the money. And none of us are going to get defeated because we fund higher education. What about the notion of zero-based budgeting? Any group you give a continuous source of revenue where you can't ask any questions, or if you do they don't have to answer them, they are not as accountable. If you believe in a quality education, you

ought to put your vote where the money should go as well. So, I would ask you to, I'm not, we may ask whether or not it's acceptable to the author. I hope he'll just let the Senate work its will.

**(Senator Eltife in Chair)**

**Presiding Officer:** Senator Hinojosa, for what purpose? Senator Hinojosa, your light's on. Did you wish to be recognized?

**Senator Ellis:** He was asking if your light was on.

**Senator Hinojosa:** Well, I will take this opportunity, Mr. President.

**Presiding Officer:** For what purpose are you rising, Senator Hinojosa?

**Senator Hinojosa:** Will Senator Ellis—

**Presiding Officer:** Senator Ellis, yield?

**Senator Ellis:** It's my honor.

**Senator Hinojosa:** You know, Senator Ellis, I was also present when we deregulated tuition. And since then, one of the complaints that we constantly receive from our constituents and our students is that tuition is so high that many of them cannot afford it and they're being priced out of a higher education. And what we're trying to do with your amendment is give back that authority and power to us legislators because, at the end of the day, we are the ones responsible for funding higher education. And when we deregulated tuition, it was really a backdoor tax on our students, a backdoor tax on our families. And I agree with you, the increase in tuitions have been so fast and so high that now we have students who had to drop out of college because they could not afford an education. And to me, I'm happy and glad to support your amendment and come back to the way we used to be. But for us, will be difficult votes, for us we cannot pass the responsibility over to appointed members of our different board of regents in our state.

**Senator Ellis:** It's a very good point and question. And it also reminds me, I got so wound up, I didn't make it clear what my amendment does. I'm not rolling back tuition under this amendment to where it was in 2003. All I'm doing is say, going forward, if you're going to raise tuition, Members, this amendment caps tuition at the amount charged during the 2015-16 school year. So, whatever they put it at, it gets to stay there and returns authority to set tuition rates to the Legislature, just like it was before we deregulated it. You know, Senator Hinojosa, you know, all of us have our, you know, sob stories that we can give, but what's interesting about this amendment is it's not just impacting our poorer Texans, the folks, sometimes, I make reference to who catch the early bus. You know what I'm talking about? We don't see them because they get up when it's still dark and get that bus to go to wherever they go. It hits everybody. I mean, I get complaints from people in the neighborhood I have the privilege of living in now about tuition. And I also get complaints from kids who are struggling to get out of the neighborhood that I was born in, that I came out of. I mean, look, education is what created the largest transfer of wealth in the history of America, education, primarily with the federal government and many states following suit to make funds available. You know, the other amendment on our TEXAS Grants program, we could have taken grants off and just called it the Texas HOPE

Scholarship Program. Good friend of mine and Senator Zaffirini's had a little hand in changing the name, but it was really patterned after Georgia's HOPE Scholarship Program. I mean, and that's what, you know, when you went to college it might have been the GI Bill. I'm not sure, I think you told me that, but I'm saying that is what created the largest transfer of wealth in the history of this country. And we know the statistics about Texas, hey, all of us are blessed on this floor. But we really got two states in the same one and that gap is getting wider. At least give these kids an opportunity to go get a college education. And we have made it unaffordable. We have the money now, and we can fund higher education. Because we certainly, I'm not going to go into the issue of what we do on secondary ed but, politically, that's a lot of clout. Back years ago, as an intern, when I worked for Governor Hobby, the only way they could get tough decisions made on issues involving money was when A&M and UT regents got together, usually after a ball game, and then came over to this building to get Members to do what they ought to do. So, thank you.

**Senator Hinojosa:** And let me also point out, if I may, Senator Ellis, the reality is that when we deregulated tuition, when you're poor you can get some financial help many times, most of the time not enough. If you're wealthy, you can afford to pay tuition, but it is the working middle class, the working middle class that doesn't qualify for any of the grants or financial aid that get hit the hardest when we deregulated tuition.

**Senator Ellis:** Well, you know, as I think about it, I don't think the rankings of any of our institutions have gone up, by the way, in terms of those national popularity polls that they print in U.S. News, or whatever, just because we deregulated tuition. It just hasn't had its intended purpose, and I just don't think we ought to try to pass a bill, walk out of here, and act like we did something to rein in the cost of tuition, and we didn't. And if anybody thinks without this amendment you did it, well, just make that the centerpiece in your newsletter. And I hope you'll put in there how much tuition went up along with that nice picture of you and those kids who won't get a college education.

**Senator Hinojosa:** It's pretty interesting because I think two sessions ago we had a bill to, again, bring the regulation of tuition back to the Texas Legislature, and it passed the Senate about 31-0, went to the House, and if I recall, it died a slow death in Texas House. As for us, we've taken the lead in the past, and now we shouldn't shrink from our responsibility to make sure that we provide an affordable college education to our students. Thank you.

**Senator Ellis:** I'd love the Senate to lead on this one. Thank you.

**Presiding Officer:** Thank you, Senator Hinojosa. Senator Zaffirini, for what purpose?

**Senator Zaffirini:** To ask a question of the author of the amendment.

**Presiding Officer:** Senator Ellis, yield?

**Senator Ellis:** It'd be my honor.

**Senator Zaffirini:** Thank you, Mr. President. Senator Ellis, basically, the effect of this amendment would be to repeal deregulation or as some would say it, re-regulate tuition.

**Senator Ellis:** Well, the language I would use would be it would put us back to the system that created your great alma mater and Texas A&M. It would put us back to where we were that brought us to the point in which we have some of the best institutions of higher education in the country.

**Senator Zaffirini:** And you recall that in 2003, there were people who didn't give that bill a prayer, but the reason that some Members voted for it was simply based on the realization that the Legislature was not going to fund higher education adequately and that if we wanted to pursue excellence, the money had to come from somewhere. And we trusted the regents not to raise it too high. But the whole focus was on excellence, and I repeat, that we need to emphasize our quest for excellence in higher education. What do you think would be the impact of passing this amendment on our pursuit of excellence in higher education?

**Senator Ellis:** Senator, I don't think it would impact it at all, and my read of history is a little different from yours. As I recall, that bill was not a bill that deregulated tuition. That was language that was added, might I add, by the leadership of the House. And when that bill came over here, it was really one that was driven, there were certainly Members of this body who were supportive of it, but it was really driven by the leadership of the House, very distinguished leadership at that time. But it was one of those issues where it crept up in the dark of night, because it was not a bill that had on the title, "giving boards of regents the ability to set tuition."

**Senator Zaffirini:** No, you're correct. I remember the same.

**Senator Ellis:** And so, all I'm saying to you, respectfully, is that it wasn't a system where the regents were setting tuition that created the two public flagship universities that we have in Texas. You know my commitment, I mean, only because I had the honor of being the Finance Chair as that issue was coming along, and Texas Tech certainly had a lot of political clout, as well. And so, working with you and leadership in both Chambers, we created that excellence fund to really create a pathway, which arguably has done as much to help UT Dallas and other great schools to get to the point in which we can have more Tier One universities. But so, in my mind, this issue is not so much about Tier One or excellent schools. I really think that that has been ancillary to the issue of setting tuition so high that far too many Texans won't have the privilege that you and I had. And as you can tell by the vote on this other one, a second ago, we just decided to set tuition to some, some rate related to inflation, but we didn't, we didn't have the same sensitivity to set student financial aid to it. And I just think we create a system where we kind of hide behind the issue. They can never raise tuition enough.

**Senator Zaffirini:** Well, the focus on financial aid, I recall, was on TEXAS Grants. But we should also discuss two other very important financial aid programs, namely, work study and, certainly, B-On-time, because financial aid includes those two

programs, and I believe they are exceedingly important for the families of the State of Texas and that they are also related to our quest for affordability, accessibility, and excellence in higher education. Would you agree?

**Senator Ellis:** Somewhat. I agree on work study, but the notion of B-On-time, to be honest with you, respectfully, we just, you and I have a difference of opinion on that. B-On-time was one that was driven by the leadership in this Chamber. And I remember making a comment, well, what we do on B-On-time is, you know, that would mean, even if they were, if it was my child, I use names of some, discussion you and I had with the leadership on the floor, I said, you didn't even put income requirement in it. So, you're going to say that the richest person, Mr. Soros' child could decide they're going to go and get a degree in three years and they still get the financial aid. And I made the comment, I wonder whether or not we are, being a political science major I can say this, whether or not we're incentivizing more kids to go major in something that they can finish in three years instead of majoring in something where they can get a job in three years. And if—

**Senator Zaffirini:** Well, it's—

**Senator Ellis:** —you would have looked at the numbers of who's going to be on time, I'll bet most of them are majoring in political science like I did, or far too many of them, instead of majoring in a real science where they could go in, go out—

**Senator Zaffirini:** —well—

**Senator Ellis:** —and find a job. So—

**Senator Zaffirini:** —well, B-On—

**Senator Ellis:** —I'm not a big fan of B-On-time.

**Senator Zaffirini:** —no, but B-On-time is about completing a degree timely, a four-year degree in four years, a five-year degree in five years, not about completing it early. But, nevertheless, let's get back to the amendment at hand. Do you believe that if we were to pass this amendment that you are offering, and we would in effect re-regulate tuition, giving the Texas Legislature the authority to set tuition, removing it from the boards of trustee, regents, do you believe that the 84th Texas Legislature would fund higher education satisfactorily at a level at which we could pursue excellence in higher education?

**Senator Ellis:** Yes, I do. I have tremendous confidence in the voters of this state who will elect 31 men and women in this Senate and 150 Members in the Texas House, who make tough decisions. And I also would add to that argument, Senator Zaffirini, with tremendous respect for you, we got to where we are with Members of the House and the Texas Senate making those decisions. And I'm convinced that Members in the future can rise to the occasion, just like our predecessors did, and just like we would do.

**Senator Zaffirini:** Have you looked at the level of funding in the appropriations bill at this point in time?

**Senator Ellis:** Yes, I have.

**Senator Zaffirini:** Do you believe that that is adequate for pursuing excellence in higher education, not adequacy, excellence in higher education?

**Senator Ellis:** Senator, I don't think you can ever put enough money in the budget to convince everybody that it achieves excellence. But I think that the money that's in the budget moves us in the right direction, and I think if this amendment goes on, in the next session of the Legislature or in a future special session, Members of this body are going to make tough decisions. Everyone who gets elected to the Legislature, they're going to earn their \$7,200 a year, and they're going to make tough decisions. And they did it in the past. I just don't think the IQ level or the commitment level of legislators went down in 2005. I think that the same caliber of people who helped us get to where we are are serving in this body today and will get elected in the future.

**Senator Zaffirini:** Thank you, Senator Ellis. Thank you, Mr. President.

**Senator Ellis:** Thank you.

**Presiding Officer:** Thank you, Senator Zaffirini. Senator Huffines, for what purpose?

**Senator Huffines:** Thank you, Mr. President. Ask the author of the amendment a question.

**Presiding Officer:** Senator Ellis, yield?

**Senator Ellis:** It's my honor.

**Senator Huffines:** Thank you, Senator Ellis. Do you, could explain to me, really quick, how your amendment would set tuition rates, how the Legislature would, walk me through that? I'm new here—

**Senator Ellis:** Yeah.

**Senator Huffines:** —that if we give this back to the Legislature, does it go to Appropriations? Does it go to Higher Ed committee?

**Senator Ellis:** In the past, it was a combination of Higher Ed making a recommendation, but, ultimately, the Finance Committee on our side and the budget committee on the House side will play a role in it. Or somebody, back when I was an intern around here, somebody would even just put in a bill to decide it's going to go up X amount, we'd debate it. Senator, it's whether or not we follow the same system in the future we followed in the past will be something the leadership will play a role in. But it's just important to note they did it. It wasn't that long ago. So, however much tuition went up in previous years, it's pretty much the same way. We get recommendations from the higher ed people. They come in and make the case, kind of like the notion of zero-based budgeting. They have to come in and make the case on why it's important, and the regents would play a role in that. Usually, they come up and testify for it. You know, I can remember rare instances where maybe some regents would quietly say, I don't think that you all ought to let us increase tuition. Could just be permissive, they don't have to do it. You could just say if you want to raise it X amount, you can. All the schools don't have to do it.

**Senator Huffines:** So, it's a regular legisla', it's a regular bill that works its way through the whole process—

**Senator Ellis:** Yes.

**Senator Huffines:** –whenever you wanted to go up on tuition–

**Senator Ellis:** Yes, Sir.

**Senator Huffines:** –or go down on tuition?

**Senator Ellis:** I don't think it ever went down.

**Senator Huffines:** No, I don't either. Do you, I'm a member, a graduate of UT also, do you remember what tuition was in 1980 at The University of Texas in Austin? I do, if you don't.

**Senator Ellis:** I, well, no, I came out of law school in 1979, but they might want to take it back. I had a scholarship, so I don't remember what it was. Put it–

**Senator Huffines:** Well, I–

**Senator Ellis:** –this way–

**Senator Huffines:** –I do.

**Senator Ellis:** –it did, it did, it didn't keep, it didn't keep me from having my little Volkswagen.

**Senator Huffines:** Four dollars a semester hour, in 1980 my tuition was \$60 for 15 hours. So, that made it very, very affordable. So, your legislation here is going to put all the authority back to the Legislature, is what your amendment's going to do?

**Senator Ellis:** Yes, Sir.

**Senator Huffines:** And that's just going to be a regular bill that works its way through the system and gets spitted out at the end of the session, and what the tuition's going to be if we change it.

**Senator Ellis:** Or it could be added as a rider to the budget. I mean, I don't, I'd have to go back and do the research, but, you know, however it was done in the past, it worked pretty well.

**Senator Huffines:** And you trust that process more than you trust the board of regents, obviously?

**Senator Ellis:** I sure do. Now, there's some wonderful people, and it's not to disparage any of them, but, you know, you and I have had our differences from time to time, but at least the voters have an opportunity to decide whether or not you and I have a decision on this matter. And look, you know with the issue of regents, when they come up, by and large, you know, if a governor recommends them and their Senator signs off on them, we sort of generally kiss them as they come through. And they're all wonderful people.

**Senator Huffines:** Well, thank you for your time and thanks for yielding.

**Senator Ellis:** Thank you.

**Presiding Officer:** Thank you, Senator Huffines. Senator Whitmire, for what purpose?

**Senator Whitmire:** Will the Senator yield?



**Senator Ellis:** It's my honor.

**Senator Whitmire:** I hesitate to say or ask any questions because you've done such an excellent job of painting an accurate portrayal of what the students face, but I can't sit here without at least mentioning some historical perspective. Prior to the deregulation, Senator Ellis, you know, I'd been in the Legislature 20 years at that time, we knew as Members that tuition that the students paid did not cover the actual costs of higher education. But as a state and as a legislative body, we took pride in the fact that we subsidized higher education because we knew of the importance of getting a college degree. So, we didn't ask the students to pay the actual costs, which is now, more or less, the practice or the justification in which the regents and their administration use when they raise it each and every year since we deregulated it. They say we've got to cover the rising cost. Prior to 2003, there were rising costs, but the Legislature met that challenge. You're absolutely right, it was a very select group of people that came up with the concept of deregulating. I actually had an amendment proposed when we considered that that would Sunset that process after two years and it was taken off in conference committee. You and I know that most students now, if they can afford college, unless they're from a privileged family, they have to take out a loan that looks like a house note by the time they finish four years of higher education. This is so contrary than some examples around the nation. Tennessee, last year, passed a bill that guaranteed free tuition for the first two years of community college because of the importance of a continuing education. I think we should recognize what has come out in this debate this morning. Would you not agree with me, when some very outspoken advocates on this floor for the higher education community are sounding the alarm about what you're fixing to do means they still plan to raise tuition? So, what we're, we've got to listen to the dialogue this morning. Some very able Members are saying, Senator Ellis, if you do what you're doing, we won't have excellence. Instead of the fact, they're pointing out we still plan to raise tuition if we don't have the accountability that you're proposing this morning. The ultimate accountability ought to be with the 31 Senators sitting here this morning, accountable to the students and their families, that if we believe that to achieve excellence—and Senator Schwertner has shown such great leadership as he said a moment ago—it won't do any good to have excellent universities if no one can get in them. And Senator Schwertner during the interim raised this issue to a very high profile, which I applaud. So, like I said, the dialogue's been great, we need to restore accountability to the Members, where it belongs—2003 was a different time than what we're experiencing now, 2003, we were having difficulty paying the state's bills. Are you aware, Senator Ellis, that as we talk, some 4.5 billion in proposed tax cuts are being proposed, and then we will leave the session with about 19 billion dollars left in the state treasury, 12 billion in Rainy Day, 7 billion left in the treasury because of the spending cap? So, for anyone to say that this body cannot meet its responsibilities to higher education, keep it affordable to the working families and their students of this state, is just not being accurate. So, thank you, I've enjoyed the dialogue, and I think we need to do the responsible thing and make Members responsible for running our universities and not our great regents, who happen to be political appointments. And

in some of our major institutions, they can't even get a loan to run the administration's business. So, let's put it back where it belongs, and I thank you for giving us the opportunity of making a statement and voting for the families of Texas.

**Senator Ellis:** Dean, you raise a good point, and I'm thinking, you know, some of our friends in higher ed, I believe, were taking advantage of a unique crisis. And, Members, they were also making the point that they were afraid of some of you all, because it was a transition year in which the Grand Old Party had control of both Chambers. So, they were saying, now you're going to have a crowd in who won't vote to make a decision to fund us, so we want to take it and put it in our hands. It's almost offensive in some ways. Your amendment should've gotten on because it was a unique set of circumstances, a crisis, and it was a bill that became a law, but not in a transparent way. It was one of those that slipped up through the dark of night and ended up becoming law. And I just don't want Members to think we can have it both ways. You can act like you're reining in tuition and, respectfully, you're really not.

**Senator Whitmire:** One last question, do you know for a fact, and I won't name names because I don't have time, do you know the number of Members in House and the Senate have told me that it was probably the worst vote they've ever taken in their political career? And I'm talking about individuals that are still serving in public office, because the unintended consequences have been tremendous to the families of Texas in terms of running up huge debts or literally preventing people from attending colleges and universities. So, now this morning, we have a opportunity for some of those Members to correct their vote, quite frankly.

**Senator Ellis:** Well, Senator, Dean, when that bill, when that amendment got on Senator Shapiro's bill in 2005, we stopped and recessed over here for about 30 minutes, because it got on. It's as though they were shocked. People were just voting, just voting their consciences, and then they pulled it off in conference committee. I move adoption, Mr. President.

**Presiding Officer:** Thank you, Senator Whitmire. Senator Seliger on Floor Amendment No. 7 by Ellis.

**Senator Seliger:** Thank you, Mr. President. Members, Senator Hinojosa's sort of really described this amendment as returning tuition to the power and authority of the State Legislature, and yet, almost every Member that has stood up has said that that power and authority has not been used to the most advantageous because people think that higher ed has been underfunded. A number of people have gotten calls and say we want tuition to be re-regulated. This bill does re-regulate tuition, make no mistake, but except beside leaving it up to the power and authority or whimsy of the State Legislature, it gives it empirical measures under which those circumstances, what the circumstances are, under which tuition, not just have you effectively lobbied your Member of the Legislature to let you raise tuition, whether it's in Austin or Wichita Falls or Alpine, but make them find measures that justify that increase in tuition. That being the case, I move to table the amendment.

**Presiding Officer:** Senator Ellis to close on the amendment.

**Senator Whitmire:** Senator Seliger, a brief question.

**Presiding Officer:** Senator Seliger, will you yield to—

**Senator Seliger:** I do.

**Presiding Officer:** —Dean Whitmire?

**Senator Whitmire:** Briefly, under your formula, I was not clear, what if in an instance of a period of deflation, you know, inflation right now is, in fact, I read *The New York Times* yesterday, the feds are trying to decide if two percent inflation would be the acceptable level for our country. We're not at two percent inflation. I assume today, it's about one or almost zero, so how does that impact the ability for the regents to raise tuition if there is zero inflation? I'm suggesting is maybe Senator Ellis' proposal, we would have a better opportunity to properly fund higher ed if we don't have a arbitrary proposed formula, we just go through the Finance Committee process, working with higher ed, and we as legislators determine what is adequate, looking at their costs. And we didn't even get into the fact that they could save some monies, you know, before they raise tuition any more. I think we ought to, quite frankly, review five million dollar a year football coaches' salaries and some of the buildings that they propose. I mean, I could get into the whole sound financial picture of our universities and how they manage the public's monies, but we haven't gone there. But I think we ought to keep in mind that they probably do waste some monies that they ought to cut out before they raise the tuition that they've been doing in recent history. But, specifically, do you, how does it work if there's zero inflation, for instance? Would that mean they do not raise the tuition, but, of course, the Schwertner amendment allows a three percent above inflation, is that, is that a limitation or can they go above that if they choose or—

**Senator Seliger:** If there is zero inflation, it presumes that tuition increases would happen on top of increases in inflation, there would be none. But that also seems—

**Senator Whitmire:** Okay, let me make that clear because I'm not sure the Members have done the math. If there's zero inflation, there'd be zero increase in tuition?

**Senator Seliger:** I believe that's exactly—

**Senator Whitmire:** What if—

**Senator Seliger:** —the case.

**Senator Whitmire:** —we have deflation, which parts of the world in the developed countries are experiencing? What if we have deflation? Are they going to lower tuition?

**Senator Seliger:** This bill does not give the responsibility to lower tuition, but are you suggesting then in a time of deflation that you would suggest that the Legislature then go in and allow, decrease—

**Senator Whitmire:** I—

**Senator Seliger:** —tuitions then?

**Senator Whitmire:** —don't, I don't know, I mean, I was just sitting here, and I wrote a note to myself—

**Senator Seliger:** You, you're right—

**Senator Whitmire:** —as you and—

**Senator Seliger:** —if you have—

**Senator Whitmire:** —as you and Senator Schwertner were talking about inflation, which, you know, 10, 20 years ago, it was going through the roof. Today, it's about one percent. The feds are trying to decide, based on allowing the prime rate and other factors to go up, whether, big headline yesterday was, is two percent acceptable for the country before the feds act on raising interest rates. So, I know it's below two, I'm guessing based on what we get paid on our money markets and other instruments, it's less than one percent. In fact, I think you can get a home mortgage right now for probably less than one percent. And certainly the state's making less than one percent on the monies that we've got sitting over there in the treasury while we're paying high interest rates in some of our outstanding bonds. But that's a discussion for another day.

**Senator Seliger:** It is.

**Senator Whitmire:** How, how does, how does your formula work if it's, let's state zero inflation, which is a real possibility?

**Senator Seliger:** If zero is inflation, it's three percent, just as in—

**Senator Whitmire:** It's—

**Senator Seliger:** —Senator Schwertner's amendment.

**Senator Whitmire:** —okay. So, getting to the concern of Senator Zaffirini, and I believe all of us, that we want it adequately funded, what if three percent, an arbitrary number that's been worked out in this legislation, is not adequate? At least Senator Ellis' proposal would allow us to do the responsible thing, and it might require a four percent increase to be—

**Senator Seliger:** It—

**Senator Whitmire:** —sufficient.

**Senator Seliger:** —it almost sounds like you have an immutable faith in a Legislature to do whatever the right thing is, that soon as deflation goes to zero and the economy gets really bad, then we will go in and do the right thing and provide more money and provide the ability, provide more tuition. There is no history to suggest that's the case.

**Senator Whitmire:** Well, we didn't have nine freshmen looking back in history, that's one change in the makeup, and we also didn't have the shale oil play in South Texas. I mean, we do have the monies to do the responsible thing, and I think, quite frankly, if you look at the Senate's proposed budget, we've done a pretty responsible job. But I just also wrote down as I was listening to you, it's not, it would not be a total miracle to have deflation in certain economic times, and I just didn't know what that would do to your formula, or I don't even know how the three percent would kick in. I guess, does deflation, which would mean the cost of everything is going down, impact what we ought to provide the colleges, or should they have to be required to cut their expenses at that time?

**Senator Seliger:** But I find it difficult to understand your faith in case of such a situation which is kind of catastrophic, that whatever the problems are, the Legislature will then go in and either allow big increases in tuition or provide more money in formula. I don't necessarily, I don't have that kind of faith in the Legislature.

**Senator Whitmire:** Well, the bottom line is, I would actually go back to the model that I worked with for about 20 years. We did fund, we did fund higher ed properly in the '70s and the '80s, and we subsidized what it was costing because we wanted students to have lower, we bragged about it as a State Legislature that we had low tuition in the State of Texas. We led the nation for the most part in lower tuition than what the actual cost was because we were encouraging people to get that college degree, and I assume most of us benefited from it. So, anyway, I personally, at this point in our history, with the kind of revenue that we're expecting, in an environment where we're actually cutting taxes 4.5 billion, you know, think about the possibilities there if we wanted to improve higher ed, certainly their crowded facilities. I just think Senator Ellis is giving us an opportunity to make a dramatic change in how our, how higher ed is funded. And I want—

**Senator Seliger:** Let's make sure—

**Senator Whitmire:** —I want to say, Schwertner, I was sitting in Houston reading the papers all fall, and this gentleman, Schwertner, made it an issue that we were going to deal with this session, and now I think Senator Ellis is even taking it to the next level that I intend to support because I've been here when it worked under the Ellis proposal.

**Senator Seliger:** We want to be clear that we understand all of the elements. Today, tuition in public universities in the State of Texas is about 12 percent below the national average, and in community colleges, about 30 percent below. And so, we're not necessarily robbing our kids for the education that they get. I want to make that very, very clear. This is the attempt to re-regulate tuition. It's just to do it along empirical factors, not just upon our faith in a Legislature to do the right thing.

**Senator Whitmire:** Well, one last thing, you're absolutely right, we're lower, but it's not only Texas that's bankrupting families and students to get the monies to pay their tuition. It's actually a national crisis, and I've read articles where the debt on college costs and tuition is actually holding down the economy's opportunity to grow. So, we're—

**Presiding Officer:** Thank you, Senator Whitmire.

**Senator Whitmire:** —we're got to deal with, Mr. President, are you kind of rushing me or something?

**Presiding Officer:** No, Sir, just, I was thanking you for your wonderful comments. Thank you, Senator Whitmire. Members, Senator Seliger has moved to table Floor Amendment No. 7, Senator Ellis to close.

**Senator Ellis:** Thank you, Mr. President. Members, I have faith in this Legislature just as I had faith in the Legislature that created the institutions that we have. I just hope you listened to that, the dialogue a little bit—2003 was the first time the Grand Old Party controlled both Chambers of the Legislature. And you had a lot of people

pushing this because they figured you all wouldn't be mature enough to continue the great institutions that were created before you got here. That's really what it amounts to. So, you had some of your leadership slip this on through, in the dark of night. Look, I didn't help you all get here, but you're here now. You make tough decisions, just like when my party was in control they had to make tough decisions. That's what it amounts to. Here's the, here's the question. How does Texas tuition growth compare to the other states? And here's the answer. Texas increases in tuition fees since 2003, 174 percent, the highest, the fifth-highest increase in the nation. States that have had larger tuition increases would be Hawaii, Arizona, Georgia, and Nevada. I just hope you'll cast a vote based on what you think is in the best interest of your constituents. Cast a decision based on what you think will make accountability be the issue when any institution wants to raise tuition. So, I would ask you, respectfully, vote against the motion to table.

**Presiding Officer:** Thank you, Senator Ellis. Members, the motion on the floor is to table Floor Amendment No. 7. Secretary, would you please call the roll?

**Secretary of the Senate:** Bettencourt. Birdwell. Burton. Campbell. Creighton. Ellis. Eltife. Estes. Fraser. Garcia. Hall. Hancock. Hinojosa. Huffines. Huffman. Kolkhorst. Lucio. Menéndez. Nelson. Nichols. Perry. Rodríguez. Schwertner. Seliger. Taylor of Galveston. Taylor of Collin. Uresti. Watson. West. Whitmire. Zaffirini.

**Presiding Officer:** 17 ayes, 14 nays, the motion to table prevails. Thank you, Senator Ellis. Thank you, Senator Seliger.







# SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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## ADDENDUM

(FORTY-FOURTH DAY — Thursday, April 30, 2015)

The following remarks regarding **SB 778** were ordered reduced to writing and printed in the *Senate Journal*.

**President:** Senator Seliger, you're recognized to suspend the regular order of business on Committee Substitute 778, or Senate Bill 778.

**Senator Seliger:** Thank you, Mr. President. I move to suspend the regular order of business to take up and consider the Committee Substitute to Senate Bill 778 at this time, relating to performance-based tuition. For several years we've been working to develop a proper methodology for holding our institutions accountable for increasing costs. And the Committee Substitute to Senate Bill 778 brings together the concepts of accountability and tuition by requiring institutions to prove performance if they wish to increase the cost. The bill requires the institutions of higher education to meet a majority of certain performance metrics before they are allowed to increase tuition beyond the rate of inflation, and the metrics include things like undergraduate degrees, completion, six-year graduations, four-year graduation rates, and others. Boards of regents, after collaborating with system administration and institutional presidents and provosts shall set institutional targets for each metric, and this allows boards to continue to be involved in strategic planning. If an institution achieves 98 percent of the target, this bill assumes that the target has been met and the definitions for each metric and process by which the data submitted and verified will be developed via facilitated negotiated rulemaking at the coordinating board. Finally, the coordinating board, after negotiating rulemaking will develop a definition for emergency exceptions, particularly natural disasters, to allow institutions some flexibility in the instance of hurricanes. I do have two amendments and there may be a couple of others. Mr. President, I move suspension.

**President:** Senator Ellis, for what purpose?

**Senator Ellis:** Express some, to ask a few questions.

**President:** Would you yield, Senator?

**Senator Seliger:** I do.

**Senator Ellis:** Senator, thank you. Can you give me some sense of what impact this bill would have on our various institutions, a sense of what it would mean for our flagship schools and some of our schools that don't attract necessarily the same caliber of students?

**Senator Seliger:** I think it addresses that, and all along the thought was, we don't want to have a bill that picks winners and losers or gives a school a particular advantage, and that's why we've chosen these things. In particular, if we look at the criteria: total undergraduate degrees, undergraduate degrees adjusted by six-year graduation rate, undergraduate degrees per 100 undergraduate full-time equivalents, undergraduate degrees to at-risk students, completion of 36 semester credit hours, 60 hours and 90 hours, administrative costs as a percent of total expenditures, average length of time to earn a degree, the four- and six-year graduation rates, and I think that's all 11 of them—

**Senator Ellis:** So—

**Senator Seliger:** —but it was designed so that colleges of those 11 will pick the six on which they wish their performance to be based, and in talking to the institutions, we feel this is a fair representation for all of them.

**Senator Ellis:** —so, Senator, do you know whether or not our various institutions of higher education are supportive of the bill or do they have problems with it? I wasn't at the hearing, but what kind of reaction did you get?

**Senator Seliger:** The reaction has been very positive. Even before we picked those specific criteria, which we discussed with the institutions and all the input I have. Are there some things, would the institutions change? Sure. We worry that the institutions would like to make the hurdles lower, even though they've not specifically asked that, but, in general, the institutions have been supportive of the bill and the philosophy behind the bill.

**Senator Ellis:** So, is it your thought, Senator, that this bill is going to lower the high cost of tuition we have in Texas, or is that what you're trying to impact, or not?

**Senator Seliger:** The goal is to do a couple of things. One is to give, to ensure that boards of regents have the sort of discretion that they need to run those institutions from all points of view. The other thing is to ensure, and there's been all the discussion debate about tuition for all these years, that if an institution wants to charge more, they must provide more. Their performance must justify that.

**Senator Ellis:** So, you don't think this will really have an impact on lowering the, you don't think this bill will lower the cost of tuition. You just think it'll make it more difficult for some institutions to raise tuition as opposed to others, but you don't, your intent here is not to try and lower the cost of getting a college education?

**Senator Seliger:** It doesn't address the overall cost to get an education. We do that other ways, Senator, quite frankly, as we looked at things like formula funding. This is designed as, if the institution wants more money, wants to raise more money, they have to provide their student body with more.

**Senator Ellis:** And, Senator, will your bill do anything to help make the case for the state putting more general revenue into our institutions of higher education? Which, you know, is part of the reason why many of the schools say that they have had to lower, they've had to raise the cost of tuition because over the years, because of various challenges, the state has not put as much money into higher ed as we did, say, prior to 2003 when it was deregulated. So, does this bill in any way, in your judgment, help make the case to put more of our state dollars into higher ed?

**Senator Seliger:** I think the case, Senator Ellis, is so well made on so many levels. It was once said by a university president to me that at one point those institutions were state-supported, and then they were state-aided, and now they are state-located. Yes, I think there's a very good case because it is a real value for this Legislature and this state to educate as many of our citizens as we can and to make them as well-educated as we can. And that's what we do in funding. Clearly, the more state support through general appropriation that goes to those institutions, the less need there is to, or the less pressure is, to raise tuition to meet their missions wherever they choose them to be.

**Senator Ellis:** Do you know, Mr. Chairman, if any other state uses this approach? I guess I just want to get some sense of whether or not anybody else does it, or maybe the thought process would be the second question on how you came up with this design. What was the process for coming up with these 12 or 13 variables here that I see? I guess I see nine, these performance measures that you, that these 11 measures that you put in, so one, does anybody else do this, and then maybe the thought process of your coming up with this concept?

**Senator Seliger:** I am not advised of specific states that this, have this sort of criteria, or this many and varied criteria. These are largely things that, in discussing things with the Higher Education Coordinating Board and chancellors and presidents, that, that we largely came up with. I'm sure some of the references there at the other institutions, but I'm not advised.

**Senator Ellis:** Okay, did, did you see the amendments that I sent out?

**Senator Seliger:** I did.

**Senator Ellis:** Okay. I do want to say how much I appreciate your willingness to give me a hearing on my bill, which would simply roll back the clock and have the Legislature make the decision on setting tuition rates, but not roll back the tuition to where it was, but just going forward, to have us make that decision so people can express their approval or disapproval with what we do. And I appreciate your willingness to have a hearing on Senator Schwertner's bill on the concept as well. I am concerned that when we deregulated tuition in this Legislature in 2003, the Texas Tomorrow Fund program essentially had to be shut off, and I know that, although I voted against tuition deregulation, I quickly put both of my remaining kids in the Texas Tomorrow program. If anybody ever went and did a study, I'm willing to bet most people who had some sense of what the markets would do and what would happen to tuition, they did it as well. For my older child, I did the private school program, not knowing where she'd go to school, but even with my limited knowledge of economics, I knew that once it was deregulated, it was a pretty good deal to buy

into the public university program. So, even if these last two kids go to school out of the State of Texas, the tuition in Texas is going to skyrocket despite what sponsors of that measure was saying on the floor. I knew it had a direct impact on the Texas Tomorrow Fund, and I told as many—we didn't have the Internet, we didn't have Twitter, and whatever you call it, Facebook, if we did, I didn't know how to use it, or I would've put it out to tell folks to sign in—but it shut down that program, as you know, shortly after that. One of the challenges we got to deal with, is to figure out how to pay for the people who are in it. And, of course, we know how tuition went up and the very people who voted for it are some of the ones who protest the loudest about the cost of tuition. The other downside to deregulating tuition is that the Texas Tomorrow Fund, I mean the TEXAS Grants program, something I'm very proud of—working with Senator Wentworth back in those days to get that bill passed, to me, is, you know, a legacy I'd like to be remembered for, but they don't put your name on the, on the grant so nobody knows about that, usually they look at buildings that people get up, at university—but that program had to be reduced, and we've never really fully funded it because what we do now is we pay a capped-off amount, because we couldn't afford to keep paying for so many kids to go. I got concerns, Senator, about the way you do this because it is untested. And I may be wrong. I can't vote for it today, other than if my amendments get on, then I'll vote on, on the back side because I've got some amendments that I think really go directly to the issue and they've been tested. We've seen them done that way before. With yours, it seems to be very well thought out, but it is an untested model and it's the kind of thing, I think, instead of us moving in this direction now, without the thought process, I think we may look back and regret it. So, that's my problem with this concept you're using. It would make me feel a little better if some other state had tried it, or if we commissioned some big foundation, sort of like on a community college issue. I'm glad the Houston Endowment from my district put up \$400,000 to go study the issue of letting community colleges do four-year degrees as a way of saving money. Maybe that's an amendment I should have tried to add on to this one as well, because that would go to the issue of letting our kids get an education a lot cheaper. But I'm just worried that your bill won't help us with this issue of probably the second largest source of debt for most people in America now is college debt. And it may not be long, I don't want to get on that truth meter, it may not be long, but I predict at some point, as opposed to owning a home being the largest source of debt, paying for their home for most Americans, will be that cost of a college tuition. But look, I applaud your trying to do something, but I just think a more straightforward approach would be the one that I'm suggesting. You know, I have my concerns about Senator Schwertner's, but to be honest with you, I think his might get there a little better than this one, than this one would. I don't know if he's going to offer an amendment or not, but I do appreciate your work. I had to say that because I wanted to talk to you about this the other night when I went to visit you, but I didn't want you to think I was over there lobbying on my bills while you were in the hospital. But I do appreciate your work on this, Mr. Chairman.

**Senator Seliger:** Thank you, Senator. I hope my discussion today is a little more cogent and comprehensible than my words were the other night. You draw attention to one of the most important issues around higher education today, and that is the

question of debt. But it must be viewed in the proper context, I think, when you look at the average student's debt, about, I think, around 40 percent of that is room and board. And a lot of grants and things like that can be spent on anything, not just tuition and fees. One of the things that we find out for young people, I tell young people all the time, that not very long after they've graduated from college, they're going to have three kinds of debt, well, a little more than that. They're going to have a home, and they're going to have debt for a car or two. They are going to have debt, possibly, for an RV or a bass boat, hopefully not a motorcycle, and they're going to have, probably, the least supportable debt one could have, and that's credit card. Because who in their right mind borrows money at 18 percent or more? And so, the discussion you bring up of debt, I think is a very, very important one, but we have to view it in the proper context.

**Senator Ellis:** Well, you know, I sometimes, I think, Mr. Chairman, I think historians still consider the greatest transference of wealth in the history of this country would be when the GI Bill passed and when the federal government got in the business of making college grants available for people to go to school. And now, unfortunately, it was at a time when most things in our society were segregated. So, by that I mean, when this great transference of debt was created in America, and we created the great middle class that we are the envy of the world for now, it was at a time when certain people couldn't get those houses because you could only live in certain neighborhoods and if there was housing in those neighborhoods, you qualified. And certain people couldn't get those grants to go to college unless those schools would accept you. And, unfortunately, by and large, many of those schools in our part of the country didn't fall in that category, and then there were caps on how many could get in in other schools around the country. But look, I know the only reason that I'm here and a good number of us are here where we are today is because of access to a college education. And in my case, I didn't have the good sense to stay in Texas, but I had a scholarship, packed up and went to New Orleans, so, great Catholic school, and Rod Paige, of all people, gave me a scholarship back when he was in the athletic business, to come back to Texas Southern and go to school there. But clearly, that was my gateway to get out of the neighborhood I grew up in and now have the privilege of representing it now. And I think that's a real tragedy in Texas, because we have made a college education unaffordable for far too many Texans, and I'm going to offer an amendment that I hope really goes directly at that issue. And I'm going to have a second one that I hope helps makes the case that I do firmly believe we ought to put more general revenue into our institutions of higher education and we ought to not be in the business of picking winners and losers. And I think, I may be wrong, if your bill passes in this form, this criteria seems to do that, in my opinion, and I may be totally wrong, and I will admit that. But it's not one that any other state has tried, it's a novel concept. It may work. But with the cost of a college education and so few Texans are getting a high school diploma and going to college now, I'm really worried that we ought to not be the place where you experiment with this. I prefer it to go back to what brought us to where we are.

**Senator Seliger:** We may not agree on one of your amendments, but we agree on the principle. The more money that we put in here and we have control, the more money that we put in here, essentially into formula funding, the less tuition and fees need to cost, the less young people will need debt. We do not agree, we don't, we do not disagree on that principle.

**Senator Ellis:** Thank you.

**Senator Seliger:** Thank you, Senator.

**President:** Senator Zaffirini, for what purpose?

**Senator Zaffirini:** To ask a question of the author of the bill.

**President:** Senator Seliger.

**Senator Seliger:** I do.

**Senator Zaffirini:** Senator Seliger, I remember when you filed this bill, there was a lot of concern, and the universities were really upset about it, but I haven't heard anything about them lately. What did you do in the committee substitute that seemed to calm everybody down?

**Senator Seliger:** It was committee substitute, we put down specifically what the, what the criteria were and offered a broader range of criteria. If there's some specifically that you're referring to, you might help me a little bit, but I think—

**Senator Zaffirini:** No, no.

**Senator Seliger:** —those were the biggest things in the committee substitute.

**Senator Zaffirini:** But they're not objecting to it at this point, or they're not concerned about it anymore?

**Senator Seliger:** Institutions, since they had seen state support increase over the last 20 years, yeah, they're concerned with about every element. And you probably heard every one of those reservations out there.

**Senator Zaffirini:** Well, I heard it earlier. I have not heard anything recently, and that's why I figured you must've changed the committee substitute somehow to appease all those people.

**Senator Seliger:** We worked with the institutions to develop the bill, at the same time pointing out that there should be a pretty good size hurdle. Certainly, given the sentiment in this body that if you want to raise tuition, then people ought to expect an increase on what they're going to get for that education or tuition.

**Senator Zaffirini:** I've always said, and you've heard me say repeatedly, that the main reason that tuition has increased is that we have not funded higher education at an adequate level. Did you consider at any point tying in tuition increases to the level of state appropriations for higher education?

**Senator Seliger:** I didn't because it, certainly I think it takes away some of the discretion of this body. That wasn't my point to do so. I think that's an independent, sort of an independent association based upon the Finance Committee's determinations on what the budget ought to be. I have been, you certainly have been,

as has Senator West and Senator Ellis, staunch advocates for putting more funding into formula because it does just that. It keeps tuition and things like that. Those are the choices we make. I've also been a staunch advocate of increases of the basic allotment in public schools and transportation. All of those are the choices that we make.

**Senator Zaffirini:** Well, I remember in 2009, and you may remember, we passed a bill 31 to 0 that tied in tuition increases to the level of state appropriations, and we passed it 31-0, but it died in the House. So, I had wondered if you perhaps revisited that concept.

**Senator Seliger:** I haven't because the impression I've gotten from the people I talk to is that such a measure here would fare no better, doesn't make it a bad idea, it just would fare no better.

**Senator Zaffirini:** On a totally different area of questioning, I know you expect some amendments, but I'm not aware of what those amendments may be. Are there some amendments that you're going to accept that we should know about, or are there others—

**Senator Seliger:** There are.

**Senator Zaffirini:** —that you will fight?

**Senator Seliger:** Yes, a couple of amendments that I have, been brought by Senator Schwertner, an amendment to my first or second amendment to be offered by Senator Watson.

**Senator Zaffirini:** Are those amendments that you're going to accept or that you're concerned about?

**Senator Seliger:** At this moment, those are the ones that I had plans to accept because we've had time to look over them and vet them and do research, and I think that they probably make it a better bill.

**Senator Zaffirini:** Do you know of any other amendments or expect any?

**Senator Seliger:** I have not heard of any more other than just being advised by Senator Ellis.

**Senator Zaffirini:** What if someone offers an amendment that would repeal deregulation? What would be your stand on that amendment?

**Senator Seliger:** It is not my plan to repeal deregulation now, it's to regulate thoughtfully and to regulate with our standard, not simply that everything costs less but that the consumers get more for the monies that they pay into higher education.

**Senator Zaffirini:** Thank you, Senator Seliger. Thank you for your leadership in higher education. I appreciate it.

**Senator Seliger:** As always, thank you for your interest and all the help you've given me.

**Senator Zaffirini:** Thank you.

**President:** Senator West, for what purpose?

**Senator West:** Question of the author.

**President:** Do you yield, Senator?

**Senator Seliger:** As soon as I get turned around, I would love to yield.

**President:** I was giving you as much time as you needed.

**Senator Seliger:** Thank you.

**Senator West:** Senator, we had a discussion yesterday about the different targets, if you will, or the different considerations that institutions are supposed to be utilizing, and they're set out, they're, obviously, the performance measures set out here in the bill. And one of them is something that I want to visit with you about to determine whether or not it should be a requirement as one of the six. And that's, as it relates to the success of at-risk students, the total number of graduates or degrees awarded by the institution to at-risk students. And the question in my mind, should that be a requirement, you still leave it as permissive, I mean, given everything we talk about in higher education, and how that should be a high priority. And you've heard that as Chairman. I heard it when I was Chairman some 10 years ago. Why shouldn't that be a requirement as opposed to being permissive?

**Senator Seliger:** I really hadn't given it a lot of thought.

**Senator West:** Well, I thought after I test', after our conversation yesterday, you'd given it a lot of thought.

**Senator Seliger:** Yes, and it prompted me to give it a good deal of thought. Clearly, I think it's an important measure, and I think it's an important value. And that's why it was, once we actually set out to compile the list, that this go on this list. It is an important measure. Is it so important that it above all the other measures should have some sort of primacy? I think because he is a new Member, it should be perfectly reasonable to pick on Senator Bettencourt, who didn't know he was going to get picked on at the moment, but he's a good example of someone who'd say the most responsible administration would be to make one of those six the cost of administration as a percentage of overall cost. It is enormously important. And there's also a huge diversity on the performance of those areas of certain institutions. Well, why this measure rather than that measure? So, rather than pick one out to be more important than all the rest, they're all on the list because they all are important.

**Senator West:** And so, you're saying there's no one more important than the other?

**Senator Seliger:** No, I think if you look at that list of 11 together, they make a very high standard, but I'd necessarily find one more important than the other.

**Senator West:** Well, it's going to be interesting to see. I'm sorry, and I don't recall, read the bill, as it relates to when will this go into effect. Do you recall?

**Senator Seliger:** I think the academic year 2017, 2018, I'm sorry. We added another year.

**Senator West:** 20—

**Senator Seliger:** 2018.

**Senator West:** —so this goes into effect 2018, so there's no immediate impact?



**Senator Seliger:** No.

**Senator West:** Okay. So, between, assuming the bill is passed in 2015, in 2018, what are we doing? What will we do in preparation for 2018?

**Senator Seliger:** In my amendment, to set down the exact tuition increases that can be contemplated by the institutions, Senator Schwertner has an amendment to limit those increases in the interim before the full scale takes place.

**Senator West:** Okay, but as it relates to the institutions determining, that, that's as it relates to tuition. I'm talking about as it relates to the performance measures. What will institutions be required to do in preparation of determining?

**Senator Seliger:** The performance measures will be in place, but the increases will be limited under this amendment to one percent.

**Senator West:** To one percent.

**Senator Seliger:** Yes.

**Senator West:** Okay, well, it's going to be interesting to see that as the institutions look at these different measures, exactly what targets they're going to be utilizing for purposes of compliance with this. And so, I would hope that you would continue to work with me to make certain that under, or at least at-risk students, the graduation rate of at-risk students is very high on their list of permissive targets, if you will, in order to comply with this particular bill.

**Senator Seliger:** I would consider it the greatest privilege to be able to work with you because I know the depth and degree of your interest and concern in this. One of the things that I am most interested to see is, if you look at the great diversity in our institutions from University of Texas at Austin to Sul Ross, from Texas A&M to, I'm going to use Texas Southern since it's not a member of the system, to see to it that we have set up a matrix so that every institution, by whatever formula they chose, that this will serve all of them and their needs, as well as challenge them to do a better job every day.

**Senator West:** Well, and you ask yourself, why is this important? I mean, like in Education this morning, we're talking about Pre-K and we see all over television, all the things that are going on in Baltimore and Ferguson and a lot of the inner cities, we're always talking about education. We just continue to talk about, as opposed to really do anything about it. And the reality is, is that everyone says but for these students being able to really get a good education, they wouldn't be in the situation they're in. And so, and I concur with that. That's not a Black issue or Hispanic issue or White issue. The issue is an educated workforce issue. And so, I'm hoping, that as we spend tax dollars, not only on Pre-K, on changes to our public education system, but we also make certain that higher education institutions are held accountable also as it relates to at-risk students. Because as you well know, when we begin to look at our public school system, the majority of the kids in the public school system are on free and reduced lunch. Those are the kids that are going to be coming through the pipeline, over five million kids in our public school system. They're going to be coming through the pipeline. We, as Texans, or future generation of Texans, will be depending upon them in order to provide the leadership and also the workforce of the

future. And I need, I want to make certain that we have a discussion about, quote, unquote, these performance measures, and the institutions that we support with public dollars are put on notice that at least one Senator, this Senator, God-willing and the creek don't rise, will be looking at this and monitoring it very closely for implementation and the selection of these performance measures that institutions will have, quote, unquote, the option to make a determination as to which ones they want to comply with for purposes of compliance with this particular legislation. You agree with that?

**Senator Seliger:** Oh, I agree. One of the things I may ask institutions is, as we go forward, to develop the sort of recordkeeping and metrics so we know exactly what it's doing in every institution. And I think that's very important. It's a very, very long and important discussion when we talk about Pre-K and early education, the values of it. I think most college presidents and chancellors would tell you that the earlier children start to learn, the better prepared they are for college and for post-secondary or for post-educational success.

**Senator West:** Well, that's, and I was listening to the debate between you and Senator Ellis, and he's correct. We know, and I know Senator Zaffirni has been a champion, as well as many others, that the prime determinative factor as it relates to getting a higher education is financial aid.

**Senator Seliger:** Right.

**Senator West:** Okay, and I'm hoping that we keep, we did good work, in terms of putting money in the budget over here in the Senate for TEXAS Grants. And I'm hoping that we keep those dollars in there. I know we put more in than the House put in, but hopefully, the House, at least on that issue, will see it as a very important decision made by the Senate. And so, again, I know that we have some amendments on this. I'll work with Senator Schwertner, and I look forward to further debate on this particular bill. Thank you.

**Senator Seliger:** Thank you, Senator West. You and I were absolutely correct. We were not ultimately successful, but talking about the importance of those TEXAS Grants, and I'm deeply appreciative for the Finance Committee and the Senate for increasing the level of TEXAS Grants in the budget, and we have gone to almost 100 percent coverage, at \$5,000, and I know that the effort we thought, what a really good target would be, was 100 percent coverage at fifty-three hundred in the next interim, and I look forward to continue to working with you on that, because I know you're willing.

**President:** Members, there's a motion to suspend the regular order of business. Members, any objection? Hearing none, the rules are suspended. Chair now lays out on second reading, Committee Substitute for Senate 78. Secretary, read the caption.

**Secretary of the Senate:** Committee Substitute to Senate Bill 778, relating to performance-based tuition limitations for certain public institutions of higher education.

**President:** Members, there's an amendment, Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 1 by Seliger.

**President:** Senator, you're recognized.

**Senator Seliger:** Thank you, Mr. President. Members, my first floor amendment to the Committee Substitute to Senate Bill 778 would cap the increases in tuition at five percent above the rate of inflation. While most institutions have not increased tuition by this much on a year-to-year basis, we did not want to leave the impression that if they were successful in meeting their targets that it was open season on tuition increase, which I believe is the impression that many people had on, that what happened with deregulation in 2003. I move adoption.

**President:** Members, we have an amendment to the amendment. Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 2 by Schwertner, amending Floor Amendment No. 1.

**President:** Senator Schwertner, you're recognized on your amendment to the amendment.

**Senator Schwertner:** Thank you, Mr. President. Members, this is a very important bill, and I'd ask you to pay attention to the various amendments to this bill. This bill is about performance metrics and affordability and access to higher education here in Texas. This is an issue that a number of people on this floor worked on, including, of course, Senator Seliger, and I thank him very much for his leadership, but, also, Senator Zaffirini and Senator Ellis and Senator West, as you heard them speak earlier. The amendment before you, the amendment to the amendment, further tightens down the amount that higher education—

**President:** Excuse me, Senator. Excuse me. Could we have quiet, please, in the Chamber? Thank you.

**Senator Schwertner:** The amendment to the amendment, thank you, Mr. President, before you further tightens down the amount that higher education institutions can raise their designated tuition, the amount set by boards of regents if they meet these performance metrics as outlined in this bill, and the proposed amount in the original amendment is inflation plus five percent. This amendment to the amendment, which is acceptable to the author, changes that to inflation plus three percent. That is still what I feel is the best route which I would like, inflation. But working with Senator Seliger and other Members of this body, we came to a compromise of inflation plus three percent when institutions of higher education meet their performance metrics. Members, the citizens of Texas expect quality and performance and excellence in our public institutions of higher education, but they also affect affordability. As a state, we understand that an educated workforce drives our economy and is critical for the future Texas, future economy of Texas. The cost of college education, as Senator Ellis pointed out, has simply skyrocketed to where our students are either priced out of higher education altogether or required to take out exorbitant and burdensome student loans to finance it. Student loans, as Senator Ellis pointed out, now represent the second-highest source of debt nationally, surpassing credit card debt and second only to mortgages. Middle class families and their children are being priced out of the American dream and the dream of sending their children to college. This bill is a good first step. It puts in place performance metrics. It also limits the amount that higher

education can raise tuition if they meet those performance metrics. This amendment to the amendment which I am offering today further tightens down the amount they can raise to inflation plus three percent. And I believe it is acceptable to Senator Seliger.

**President:** Senator Seliger on the amendment to your amendment.

**Senator Seliger:** The amendment to the amendment is acceptable to the author of the amendment and the bill.

**President:** Senator Zaffirini, for what purpose?

**Senator Zaffirini:** For a question to the author of the amendment to the amendment.

**President:** Do you yield, Senator Schwertner?

**Senator Schwertner:** Certainly.

**Senator Zaffirini:** Thank you, Senator Schwertner. As you worked on this amendment and on the amendment to the amendment, was there any discussion of the impact that either the amendment or the amendment to the amendment would have on excellence in higher education?

**Senator Schwertner:** On, on Texans, or on—

**Senator Zaffirini:** On excellence.

**Senator Schwertner:** My concern with working with Senator Seliger and on these amendments was access to affordable higher education and what it would do to the families and children in Texas that want to pursue the dream of a college education. That was my underlying goal is to not price out students that want to go to college.

**Senator Zaffirini:** And I share that.

**Senator Schwertner:** And we're, unfortunately, the policy of deregulation has set that in motion to where affordability has become a critical piece of access here in Texas.

**Senator Zaffirini:** And I agree. I'm very concerned. I share your concern and Senator Seliger's and the concerns of other Members regarding accessibility and affordability and accountability, but I believe very strongly that we should always address those issues in light of excellence in higher education and their impact on it. Because if we don't fund higher education adequately, if this Legislature does not fund higher education at the level it needs to pursue excellence and then we limit that tuition, we have a problem. The money has to come from somewhere. So, I'm hoping that you being on the conference committee, working with your fellow conferees, that this legislation will pass, that you will point out the impact of this particular piece of legislation and others, and therefore be as persuasive as you possibly can to ensure that we fund higher education at the highest level possible because excellence is expensive.

**Senator Schwertner:** I agree with you. We should expect excellence in both education and research, but we should also expect affordability and access. What good is a institution of higher education if the doors are locked because they cannot afford to get into them?

**Senator Zaffirini:** Right, but then who wants a cheap, cruddy education? So, thank you, Senator.

**Senator Schwertner:** Thank you, Senator.

**President:** Members, the motion is on the amendment to the amendment, which is acceptable by the author. Is there any objection? The amendment to the amendment is acceptable. Members, the motion is now on the amendment by Senator Seliger, is there any objection? The amendment is acceptable. The amendment passes, and it's acceptable. Members, we have another amendment. Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 3 by Seliger.

**President:** Senator Seliger, you're recognized.

**Senator Seliger:** Thank you, Mr. President. Members, this amendment clarifies that the Texas Higher Education Coordinating Board via facilitated, negotiated, rulemaking with the institutions shall develop the standards by which the targets are set, with a specific focus on ensuring institutional improvement on the metrics. This will ensure that the target set by the board of regents focus on improvement. The reason for this amendment is to ensure that the requirements were rigorous ones, and they would require institutions to stretch and really provide more as they ask their students for more money. I move adoption to the floor amendment.

**President:** We have an amendment to this amendment, Senator Seliger. Secretary will read the amendment to the amendment.

**Secretary of the Senate:** Floor Amendment No. 4, amending Floor Amendment No. 3.

**President:** Senator Watson, you're recognized on your amendment to the amendment.

**Senator Watson:** Thank you, very much, Mr. President. Members, this floor amendment builds on Chairman Seliger's good work on this bill and on his amendment. As we heard, Chairman Seliger's amendment requires the Texas Higher Education Coordinating Board to host negotiated rulemaking to develop the standards for governing boards to use in setting target levels for each of the bill's performance metrics. What this amendment would do is it would also further tighten this. This amendment to the amendment would require that the university governing boards shall adhere to these standards in setting the performance target levels for their institutions. I believe the amendment to the amendment is acceptable to the author, and I move adoption.

**President:** Senator Seliger, you're recognized.

**Senator Seliger:** This amendment is acceptable to the author.

**President:** Members, the motion is on the amendment to the amendment, acceptable to the author. Any objection? Hearing none, the amendment to the amendment is acceptable and passes. Now, the motion is on the amendment by Senator Seliger,

Amendment No. 3 is the motion we're voting on. Is there any objection? Hearing none, Amendment No. 3 is adopted. Members, we have an amendment. Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 5 by Schwertner and West.

**President:** Senator West and Senator Schwertner, this is a joint amendment. Do you wish to speak on it or Senator Schwertner? Senator Schwertner, you're recognized.

**Senator Schwertner:** Thank you, Mr. President. Mr. President and Members, this bill does not go into full effect until after the 2017-18 academic year. I've worked with Senator West and Senator Seliger, and I believe this amendment also is acceptable. But for the timeframe between, over the next two academic cycles, this amendment would limit tuition increases to inflation plus one percent for the next two academic cycles. And I believe it is acceptable to the amendment. I'm proud to have the support of Senator West on this amendment and would yield to Senator West, if he would like to say any words.

**Senator West:** Thank you, thank you very much, Senator Schwertner.

**President:** Senator West, you're recognized.

**Senator West:** Thank you, Mr. President. Thank you, Senator Schwertner, for yielding and, Senator Seliger, for working with us on this. You know, again, if I had my way we would make certain that the Legislature set tuition in the State of Texas, but that's not the way it is today. But I think this moves in the right direction as it relates to bringing a little bit more responsibility, if you will, in terms of the tuition that's charged, probably many of these students that are sitting up here. And so, we need to make certain, even though they look like they may be in about the sixth, let's see, fifth, fourth and fifth grade, probably. They look like fourth and fifth graders. That this particular bill will, hopefully, benefit them down the road as we continue to have this discussion about how much they're going to have to pay in terms of tuition and fees, as they provide the future workforce, preparation of the future workforce for the State of Texas. So, I'm glad to join this as a co-author.

**President:** Members, the motion is on the amendment to the amendment. Senator Seliger, is it acceptable?

**Senator Seliger:** Is this an amendment to an amendment or just an—

**President:** I'm sorry, no, it is not—

**Senator Seliger:** —amendment to the bill?

**President:** —it's an amendment. It's Senator Schwertner and Senator West's amendment.

**Senator Seliger:** The amendment is acceptable to the author.

**President:** Members, any questions? Hearing none, amendment is adopted. Members, there's an amendment. Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 6 by Ellis.

**President:** Senator Ellis, you're recognized on your amendment. Yes, Sir, this is your amendment.

**Senator Ellis:** Thank you. Let me see which one, I have two, Mr. President. Yes, Sir, Mr. President, Members, this amendment simply indexes the TEXAS Grant funding to inflation. Since we seem content, unfortunately, for whatever reason, to allow tuition to grow, in some of these institutions it may be in perpetuity, although the amendment offered by my distinguished colleague does have the ability of reining it in a bit. Obviously, all of us have a concern whether or not they will take that as the new floor. We hope that they won't. But what this does is, simply, create the next step to help our students be able to afford the tuition, whatever it costs. Long term, I fear that schools that already do well, The University of Texas at Austin and A&M come to mind, will find it easier to meet the metrics under Chairman Seliger's bill and that tuition may possibly go higher under that formula. That will make it even more difficult than it is already for hardworking Texas families to afford the cost of higher education. Schools that serve a population of first-generation students and students whose families are unable to contribute as much as they'd like towards their child's education, those schools will likely have a harder time meeting the metrics in Senate Bill 778, so that tuition will be lower. The net effect is a class of high performing, more expensive schools and a class of lower performing, less expensive schools. I don't want to price working families out of high performing schools any more than they already are. So, if we're going to index, in any way, tuition to inflation, I think it only makes sense that we also index funding for our premier student financial aid program. As you all know, this is the largest state-funded student financial aid program in the country. It has been tremendously successful over the years, but it really will amount to a drop in the bucket if tuition continues to go up, but we don't make sure we're doing something to make the scholarships that are available, the grants that are available to our first-generation students, in particular, something that will help them. We already don't pay the full ride of tuition with TEXAS Grants because we deregulated tuition. But since it appears as though we're moving towards a system of indexing the cost of a college education inflation, I think it only makes sense and is only fair if we also index the aid that we provide to our students to inflation as well. And I hope it is acceptable to the author.

**Senator Seliger:** It is admired if not acceptable, Senator Ellis, because TEXAS Grants are enormously important and enormously valuable. But this bill is not about TEXAS Grants, and I feel that this amendment would not be germane to the bill. It also ties the hands of the Legislature that every two years has to go up and stand up for those students, advocate, appropriate money for those TEXAS Grants, and I feel that that's also appropriate. And so, it's with great respect to my colleague that I move to table the amendment.

**President:** Member, you're recognized, Members, there's a move to table, Senator Ellis to close.

**Senator Ellis:** Members, it's a real straightforward decision that you have to make. You just voted on a bill that we had a discussion about. We're using a fairly novel approach to come up with guidelines on how you set tuition. I don't know if it will work or not, and I think I laid that out pretty clearly. It is truly novel, nobody else does it. An amendment was added to index the cost of tuition, a rate at which tuition can go up, to inflation. Now you know we don't index what the professors make, what the

president makes, we don't index anything else at those institutions to inflation, but we are going to index what they can charge our children to go to college, as Senator Schwertner said, very eloquently, the second largest source of debt for our people in Texas, all of our constituents. And so, I'm simply asking that if we're going to index the cost of an education to inflation, we ought to index what we put in through our state-funded scholarship program to inflation as well. So, I hope you'll take a deep breath and think about it. And I hope that you will vote against the Chairman's motion to table.

**President:** Members, the motion is to table. The Secretary will call the roll.

**Secretary of the Senate:** Bettencourt. Birdwell. Burton. Campbell. Creighton. Ellis. Eltife. Estes. Fraser. Garcia. Hall. Hancock. Hinojosa. Huffines. Huffman. Kolkhorst. Lucio. Menéndez. Nelson. Nichols. Perry. Rodríguez. Schwertner. Seliger. Taylor of Galveston. Taylor of Collin. Uresti. Watson. West. Whitmire. Zaffirini.

**President:** There being 19 ayes and 12 nays, the motion to table prevails. There is an amendment, Members. The Secretary will read the amendment. Senator Ellis, you're, I'm sorry.

**Secretary of the Senate:** Floor Amendment No. 7.

**President:** Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 7 by Ellis.

**President:** Senator Ellis, you're recognized.

**Senator Ellis:** Thank you, Mr. President and Members. Members, I'm pleased that this last vote was not along partisan lines because this really is not a partisan issue. In 2003, facing one of the worst budget situations in the history of Texas, a bill came up that had nothing to do with deregulating tuition. It was one of those bills that had a broad caption, the ones I look for, particularly in the new Texas. I love broad captions. That bill would not have seen the light of day in this Senate—2003, if you roll back the clock in history, it was a tough year. Members of the House broke the quorum, and they went to some-odd place in Oklahoma. Can't remember the name. Ardmore, they went to Ardmore, Oklahoma, to break the quorum over the issue of redistricting. In the Senate there was a fear that maybe some of these old Senators would break the quorum again. There was a ethics bill up, Senator Taylor, and can you imagine who was carrying the ethics bill? Mr. Ethics himself. And we got in a heated discussion after the conference committee agreed on the language in that bill. And then the Governor's office got involved, because they were concerned about ethics. And that bill was coming up on the calendar, so I threatened to filibuster and blow up the session over the bill that language is going to be added to do tuition de-reg. And it was really as a way of forcing the issue on my ethics bill. We thought, on my side of the aisle, the play was to drag us back into special session on ethics, so if the Democrats broke the quorum, it was because we were unethical as opposed to the issue of redistricting. That's really what happened. And then we had a meeting of the minds, the Speaker came over back here, and the Lieutenant Governor was back there, the Governor came in, and we agreed on the ethics bill, and it zipped out of here. And I was having so much fun getting all that attention. Then I decided, well, I think I'll



just filibuster that bill anyway. And then, you know, our regents are not supposed to lobby, so they had a dear friend of mine call me, whose name I won't, I remember but I won't mention on the floor of this Senate, and said he was watching the Senate proceedings on the Internet and wondered what was going on because university people couldn't admit they found one of my dear friends to call me. And I said, you don't even know how to get on the Internet, and then I know you couldn't find the station to figure out what we're doing on the Senate floor. Who put you up to call? It was to get me to back down on filibustering the bill, I'd agree not to filibuster to get my ethics bill out. Look, we were broke in 2003, and the only way the institutions of higher education could get the money that they needed and, quite frankly, the money that they deserved, was to deregulate tuition. Senator Zaffirini, you and I don't disagree on a lot of issues, but I disagreed on that issue back then. I voted no. A lot of Members held their breath and voted for that bill. Roll the clock forward, it was only a couple of sessions later in 2005, Mr. Chairman, one of your predecessors, Chairwoman Shapiro, had a bill up. Whatever the Committee Substitute to Senate Bill 1228 did, I have no earthly idea, but it had a broad caption. I offered an amendment, as I'm offering today, to put the State of Texas back where it was in 2003, the same system that created The University of Texas and the same system that created Texas A&M University, same system that created all of the institutions of higher education across the state. And I got the amendment on. It just repealed it. Look, our predecessors made tough decisions. They cast hard votes on whether or not they had to do dreadful things that could get them defeated to create the great institutions that we have in Texas today, including my alma mater, UT, that I'm very proud of. If they did it, we ought to be able to do it. And people who occupy these chairs after us ought to be able to do it. We ought to not continue to saddle the next generation of Texans with unbearable debt because our predecessors didn't do it to us, and that's what this amendment does. I want to remind you what that vote was. I'm not going to call out the ones who voted on the other side, because they might have been in the lounge or busy anyway. Barrientos voted with me, Brimer, Deuell, Gallegos, Chris Harris—Mr. Happy, easygoing, good-attitude guy himself voted with me. Lucio, you voted with me. Frank Madla, may he rest in peace. Chairwoman Nelson voted with me. Chairman Ogden voted with me. Shapleigh voted with me. Staples voted with me. Van de Putte voted with me. Wentworth voted with me. West voted with me. Whitmire voted with me. Williams voted with me. They voted right. They voted for their constituents. It was a mistake to deregulate tuition in 2003. And I told my friends in higher ed, you ought to be careful what you ask for because you might get it. You're going to be in a position where you still can't raise tuition enough to fund your needs, and then you're going to have the people that you go to and ask for the money saying, you have a source of revenue. You take the heat by yourself, and then we all claim we all had nothing to do with it. We are the reason college education for far too many Texans is unaffordable. So, I'm going to ask you to vote with me, take a leap of faith. Look, we have the money, and you know we have the money. And none of us are going to get defeated because we fund higher education. What about the notion of zero-based budgeting? Any group you give a continuous source of revenue where you can't ask any questions, or if you do they don't have to answer them, they are not as accountable. If you believe in a quality education, you

ought to put your vote where the money should go as well. So, I would ask you to, I'm not, we may ask whether or not it's acceptable to the author. I hope he'll just let the Senate work its will.

**(Senator Eltife in Chair)**

**Presiding Officer:** Senator Hinojosa, for what purpose? Senator Hinojosa, your light's on. Did you wish to be recognized?

**Senator Ellis:** He was asking if your light was on.

**Senator Hinojosa:** Well, I will take this opportunity, Mr. President.

**Presiding Officer:** For what purpose are you rising, Senator Hinojosa?

**Senator Hinojosa:** Will Senator Ellis—

**Presiding Officer:** Senator Ellis, yield?

**Senator Ellis:** It's my honor.

**Senator Hinojosa:** You know, Senator Ellis, I was also present when we deregulated tuition. And since then, one of the complaints that we constantly receive from our constituents and our students is that tuition is so high that many of them cannot afford it and they're being priced out of a higher education. And what we're trying to do with your amendment is give back that authority and power to us legislators because, at the end of the day, we are the ones responsible for funding higher education. And when we deregulated tuition, it was really a backdoor tax on our students, a backdoor tax on our families. And I agree with you, the increase in tuitions have been so fast and so high that now we have students who had to drop out of college because they could not afford an education. And to me, I'm happy and glad to support your amendment and come back to the way we used to be. But for us, will be difficult votes, for us we cannot pass the responsibility over to appointed members of our different board of regents in our state.

**Senator Ellis:** It's a very good point and question. And it also reminds me, I got so wound up, I didn't make it clear what my amendment does. I'm not rolling back tuition under this amendment to where it was in 2003. All I'm doing is say, going forward, if you're going to raise tuition, Members, this amendment caps tuition at the amount charged during the 2015-16 school year. So, whatever they put it at, it gets to stay there and returns authority to set tuition rates to the Legislature, just like it was before we deregulated it. You know, Senator Hinojosa, you know, all of us have our, you know, sob stories that we can give, but what's interesting about this amendment is it's not just impacting our poorer Texans, the folks, sometimes, I make reference to who catch the early bus. You know what I'm talking about? We don't see them because they get up when it's still dark and get that bus to go to wherever they go. It hits everybody. I mean, I get complaints from people in the neighborhood I have the privilege of living in now about tuition. And I also get complaints from kids who are struggling to get out of the neighborhood that I was born in, that I came out of. I mean, look, education is what created the largest transfer of wealth in the history of America, education, primarily with the federal government and many states following suit to make funds available. You know, the other amendment on our TEXAS Grants program, we could have taken grants off and just called it the Texas HOPE

Scholarship Program. Good friend of mine and Senator Zaffirini's had a little hand in changing the name, but it was really patterned after Georgia's HOPE Scholarship Program. I mean, and that's what, you know, when you went to college it might have been the GI Bill. I'm not sure, I think you told me that, but I'm saying that is what created the largest transfer of wealth in the history of this country. And we know the statistics about Texas, hey, all of us are blessed on this floor. But we really got two states in the same one and that gap is getting wider. At least give these kids an opportunity to go get a college education. And we have made it unaffordable. We have the money now, and we can fund higher education. Because we certainly, I'm not going to go into the issue of what we do on secondary ed but, politically, that's a lot of clout. Back years ago, as an intern, when I worked for Governor Hobby, the only way they could get tough decisions made on issues involving money was when A&M and UT regents got together, usually after a ball game, and then came over to this building to get Members to do what they ought to do. So, thank you.

**Senator Hinojosa:** And let me also point out, if I may, Senator Ellis, the reality is that when we deregulated tuition, when you're poor you can get some financial help many times, most of the time not enough. If you're wealthy, you can afford to pay tuition, but it is the working middle class, the working middle class that doesn't qualify for any of the grants or financial aid that get hit the hardest when we deregulated tuition.

**Senator Ellis:** Well, you know, as I think about it, I don't think the rankings of any of our institutions have gone up, by the way, in terms of those national popularity polls that they print in U.S. News, or whatever, just because we deregulated tuition. It just hasn't had its intended purpose, and I just don't think we ought to try to pass a bill, walk out of here, and act like we did something to rein in the cost of tuition, and we didn't. And if anybody thinks without this amendment you did it, well, just make that the centerpiece in your newsletter. And I hope you'll put in there how much tuition went up along with that nice picture of you and those kids who won't get a college education.

**Senator Hinojosa:** It's pretty interesting because I think two sessions ago we had a bill to, again, bring the regulation of tuition back to the Texas Legislature, and it passed the Senate about 31-0, went to the House, and if I recall, it died a slow death in Texas House. As for us, we've taken the lead in the past, and now we shouldn't shrink from our responsibility to make sure that we provide an affordable college education to our students. Thank you.

**Senator Ellis:** I'd love the Senate to lead on this one. Thank you.

**Presiding Officer:** Thank you, Senator Hinojosa. Senator Zaffirini, for what purpose?

**Senator Zaffirini:** To ask a question of the author of the amendment.

**Presiding Officer:** Senator Ellis, yield?

**Senator Ellis:** It'd be my honor.

**Senator Zaffirini:** Thank you, Mr. President. Senator Ellis, basically, the effect of this amendment would be to repeal deregulation or as some would say it, re-regulate tuition.

**Senator Ellis:** Well, the language I would use would be it would put us back to the system that created your great alma mater and Texas A&M. It would put us back to where we were that brought us to the point in which we have some of the best institutions of higher education in the country.

**Senator Zaffirini:** And you recall that in 2003, there were people who didn't give that bill a prayer, but the reason that some Members voted for it was simply based on the realization that the Legislature was not going to fund higher education adequately and that if we wanted to pursue excellence, the money had to come from somewhere. And we trusted the regents not to raise it too high. But the whole focus was on excellence, and I repeat, that we need to emphasize our quest for excellence in higher education. What do you think would be the impact of passing this amendment on our pursuit of excellence in higher education?

**Senator Ellis:** Senator, I don't think it would impact it at all, and my read of history is a little different from yours. As I recall, that bill was not a bill that deregulated tuition. That was language that was added, might I add, by the leadership of the House. And when that bill came over here, it was really one that was driven, there were certainly Members of this body who were supportive of it, but it was really driven by the leadership of the House, very distinguished leadership at that time. But it was one of those issues where it crept up in the dark of night, because it was not a bill that had on the title, "giving boards of regents the ability to set tuition."

**Senator Zaffirini:** No, you're correct. I remember the same.

**Senator Ellis:** And so, all I'm saying to you, respectfully, is that it wasn't a system where the regents were setting tuition that created the two public flagship universities that we have in Texas. You know my commitment, I mean, only because I had the honor of being the Finance Chair as that issue was coming along, and Texas Tech certainly had a lot of political clout, as well. And so, working with you and leadership in both Chambers, we created that excellence fund to really create a pathway, which arguably has done as much to help UT Dallas and other great schools to get to the point in which we can have more Tier One universities. But so, in my mind, this issue is not so much about Tier One or excellent schools. I really think that that has been ancillary to the issue of setting tuition so high that far too many Texans won't have the privilege that you and I had. And as you can tell by the vote on this other one, a second ago, we just decided to set tuition to some, some rate related to inflation, but we didn't, we didn't have the same sensitivity to set student financial aid to it. And I just think we create a system where we kind of hide behind the issue. They can never raise tuition enough.

**Senator Zaffirini:** Well, the focus on financial aid, I recall, was on TEXAS Grants. But we should also discuss two other very important financial aid programs, namely, work study and, certainly, B-On-time, because financial aid includes those two

programs, and I believe they are exceedingly important for the families of the State of Texas and that they are also related to our quest for affordability, accessibility, and excellence in higher education. Would you agree?

**Senator Ellis:** Somewhat. I agree on work study, but the notion of B-On-time, to be honest with you, respectfully, we just, you and I have a difference of opinion on that. B-On-time was one that was driven by the leadership in this Chamber. And I remember making a comment, well, what we do on B-On-time is, you know, that would mean, even if they were, if it was my child, I use names of some, discussion you and I had with the leadership on the floor, I said, you didn't even put income requirement in it. So, you're going to say that the richest person, Mr. Soros' child could decide they're going to go and get a degree in three years and they still get the financial aid. And I made the comment, I wonder whether or not we are, being a political science major I can say this, whether or not we're incentivizing more kids to go major in something that they can finish in three years instead of majoring in something where they can get a job in three years. And if—

**Senator Zaffirini:** Well, it's—

**Senator Ellis:** —you would have looked at the numbers of who's going to be on time, I'll bet most of them are majoring in political science like I did, or far too many of them, instead of majoring in a real science where they could go in, go out—

**Senator Zaffirini:** —well—

**Senator Ellis:** —and find a job. So—

**Senator Zaffirini:** —well, B-On—

**Senator Ellis:** —I'm not a big fan of B-On-time.

**Senator Zaffirini:** —no, but B-On-time is about completing a degree timely, a four-year degree in four years, a five-year degree in five years, not about completing it early. But, nevertheless, let's get back to the amendment at hand. Do you believe that if we were to pass this amendment that you are offering, and we would in effect re-regulate tuition, giving the Texas Legislature the authority to set tuition, removing it from the boards of trustee, regents, do you believe that the 84th Texas Legislature would fund higher education satisfactorily at a level at which we could pursue excellence in higher education?

**Senator Ellis:** Yes, I do. I have tremendous confidence in the voters of this state who will elect 31 men and women in this Senate and 150 Members in the Texas House, who make tough decisions. And I also would add to that argument, Senator Zaffirini, with tremendous respect for you, we got to where we are with Members of the House and the Texas Senate making those decisions. And I'm convinced that Members in the future can rise to the occasion, just like our predecessors did, and just like we would do.

**Senator Zaffirini:** Have you looked at the level of funding in the appropriations bill at this point in time?

**Senator Ellis:** Yes, I have.

**Senator Zaffirini:** Do you believe that that is adequate for pursuing excellence in higher education, not adequacy, excellence in higher education?

**Senator Ellis:** Senator, I don't think you can ever put enough money in the budget to convince everybody that it achieves excellence. But I think that the money that's in the budget moves us in the right direction, and I think if this amendment goes on, in the next session of the Legislature or in a future special session, Members of this body are going to make tough decisions. Everyone who gets elected to the Legislature, they're going to earn their \$7,200 a year, and they're going to make tough decisions. And they did it in the past. I just don't think the IQ level or the commitment level of legislators went down in 2005. I think that the same caliber of people who helped us get to where we are are serving in this body today and will get elected in the future.

**Senator Zaffirini:** Thank you, Senator Ellis. Thank you, Mr. President.

**Senator Ellis:** Thank you.

**Presiding Officer:** Thank you, Senator Zaffirini. Senator Huffines, for what purpose?

**Senator Huffines:** Thank you, Mr. President. Ask the author of the amendment a question.

**Presiding Officer:** Senator Ellis, yield?

**Senator Ellis:** It's my honor.

**Senator Huffines:** Thank you, Senator Ellis. Do you, could explain to me, really quick, how your amendment would set tuition rates, how the Legislature would, walk me through that? I'm new here—

**Senator Ellis:** Yeah.

**Senator Huffines:** —that if we give this back to the Legislature, does it go to Appropriations? Does it go to Higher Ed committee?

**Senator Ellis:** In the past, it was a combination of Higher Ed making a recommendation, but, ultimately, the Finance Committee on our side and the budget committee on the House side will play a role in it. Or somebody, back when I was an intern around here, somebody would even just put in a bill to decide it's going to go up X amount, we'd debate it. Senator, it's whether or not we follow the same system in the future we followed in the past will be something the leadership will play a role in. But it's just important to note they did it. It wasn't that long ago. So, however much tuition went up in previous years, it's pretty much the same way. We get recommendations from the higher ed people. They come in and make the case, kind of like the notion of zero-based budgeting. They have to come in and make the case on why it's important, and the regents would play a role in that. Usually, they come up and testify for it. You know, I can remember rare instances where maybe some regents would quietly say, I don't think that you all ought to let us increase tuition. Could just be permissive, they don't have to do it. You could just say if you want to raise it X amount, you can. All the schools don't have to do it.

**Senator Huffines:** So, it's a regular legisla', it's a regular bill that works its way through the whole process—

**Senator Ellis:** Yes.

**Senator Huffines:** –whenever you wanted to go up on tuition–

**Senator Ellis:** Yes, Sir.

**Senator Huffines:** –or go down on tuition?

**Senator Ellis:** I don't think it ever went down.

**Senator Huffines:** No, I don't either. Do you, I'm a member, a graduate of UT also, do you remember what tuition was in 1980 at The University of Texas in Austin? I do, if you don't.

**Senator Ellis:** I, well, no, I came out of law school in 1979, but they might want to take it back. I had a scholarship, so I don't remember what it was. Put it–

**Senator Huffines:** Well, I–

**Senator Ellis:** –this way–

**Senator Huffines:** –I do.

**Senator Ellis:** –it did, it did, it didn't keep, it didn't keep me from having my little Volkswagen.

**Senator Huffines:** Four dollars a semester hour, in 1980 my tuition was \$60 for 15 hours. So, that made it very, very affordable. So, your legislation here is going to put all the authority back to the Legislature, is what your amendment's going to do?

**Senator Ellis:** Yes, Sir.

**Senator Huffines:** And that's just going to be a regular bill that works its way through the system and gets spitted out at the end of the session, and what the tuition's going to be if we change it.

**Senator Ellis:** Or it could be added as a rider to the budget. I mean, I don't, I'd have to go back and do the research, but, you know, however it was done in the past, it worked pretty well.

**Senator Huffines:** And you trust that process more than you trust the board of regents, obviously?

**Senator Ellis:** I sure do. Now, there's some wonderful people, and it's not to disparage any of them, but, you know, you and I have had our differences from time to time, but at least the voters have an opportunity to decide whether or not you and I have a decision on this matter. And look, you know with the issue of regents, when they come up, by and large, you know, if a governor recommends them and their Senator signs off on them, we sort of generally kiss them as they come through. And they're all wonderful people.

**Senator Huffines:** Well, thank you for your time and thanks for yielding.

**Senator Ellis:** Thank you.

**Presiding Officer:** Thank you, Senator Huffines. Senator Whitmire, for what purpose?

**Senator Whitmire:** Will the Senator yield?

**Senator Ellis:** It's my honor.

**Senator Whitmire:** I hesitate to say or ask any questions because you've done such an excellent job of painting an accurate portrayal of what the students face, but I can't sit here without at least mentioning some historical perspective. Prior to the deregulation, Senator Ellis, you know, I'd been in the Legislature 20 years at that time, we knew as Members that tuition that the students paid did not cover the actual costs of higher education. But as a state and as a legislative body, we took pride in the fact that we subsidized higher education because we knew of the importance of getting a college degree. So, we didn't ask the students to pay the actual costs, which is now, more or less, the practice or the justification in which the regents and their administration use when they raise it each and every year since we deregulated it. They say we've got to cover the rising cost. Prior to 2003, there were rising costs, but the Legislature met that challenge. You're absolutely right, it was a very select group of people that came up with the concept of deregulating. I actually had an amendment proposed when we considered that that would Sunset that process after two years and it was taken off in conference committee. You and I know that most students now, if they can afford college, unless they're from a privileged family, they have to take out a loan that looks like a house note by the time they finish four years of higher education. This is so contrary than some examples around the nation. Tennessee, last year, passed a bill that guaranteed free tuition for the first two years of community college because of the importance of a continuing education. I think we should recognize what has come out in this debate this morning. Would you not agree with me, when some very outspoken advocates on this floor for the higher education community are sounding the alarm about what you're fixing to do means they still plan to raise tuition? So, what we're, we've got to listen to the dialogue this morning. Some very able Members are saying, Senator Ellis, if you do what you're doing, we won't have excellence. Instead of the fact, they're pointing out we still plan to raise tuition if we don't have the accountability that you're proposing this morning. The ultimate accountability ought to be with the 31 Senators sitting here this morning, accountable to the students and their families, that if we believe that to achieve excellence—and Senator Schwertner has shown such great leadership as he said a moment ago—it won't do any good to have excellent universities if no one can get in them. And Senator Schwertner during the interim raised this issue to a very high profile, which I applaud. So, like I said, the dialogue's been great, we need to restore accountability to the Members, where it belongs—2003 was a different time than what we're experiencing now, 2003, we were having difficulty paying the state's bills. Are you aware, Senator Ellis, that as we talk, some 4.5 billion in proposed tax cuts are being proposed, and then we will leave the session with about 19 billion dollars left in the state treasury, 12 billion in Rainy Day, 7 billion left in the treasury because of the spending cap? So, for anyone to say that this body cannot meet its responsibilities to higher education, keep it affordable to the working families and their students of this state, is just not being accurate. So, thank you, I've enjoyed the dialogue, and I think we need to do the responsible thing and make Members responsible for running our universities and not our great regents, who happen to be political appointments. And



in some of our major institutions, they can't even get a loan to run the administration's business. So, let's put it back where it belongs, and I thank you for giving us the opportunity of making a statement and voting for the families of Texas.

**Senator Ellis:** Dean, you raise a good point, and I'm thinking, you know, some of our friends in higher ed, I believe, were taking advantage of a unique crisis. And, Members, they were also making the point that they were afraid of some of you all, because it was a transition year in which the Grand Old Party had control of both Chambers. So, they were saying, now you're going to have a crowd in who won't vote to make a decision to fund us, so we want to take it and put it in our hands. It's almost offensive in some ways. Your amendment should've gotten on because it was a unique set of circumstances, a crisis, and it was a bill that became a law, but not in a transparent way. It was one of those that slipped up through the dark of night and ended up becoming law. And I just don't want Members to think we can have it both ways. You can act like you're reining in tuition and, respectfully, you're really not.

**Senator Whitmire:** One last question, do you know for a fact, and I won't name names because I don't have time, do you know the number of Members in House and the Senate have told me that it was probably the worst vote they've ever taken in their political career? And I'm talking about individuals that are still serving in public office, because the unintended consequences have been tremendous to the families of Texas in terms of running up huge debts or literally preventing people from attending colleges and universities. So, now this morning, we have a opportunity for some of those Members to correct their vote, quite frankly.

**Senator Ellis:** Well, Senator, Dean, when that bill, when that amendment got on Senator Shapiro's bill in 2005, we stopped and recessed over here for about 30 minutes, because it got on. It's as though they were shocked. People were just voting, just voting their consciences, and then they pulled it off in conference committee. I move adoption, Mr. President.

**Presiding Officer:** Thank you, Senator Whitmire. Senator Seliger on Floor Amendment No. 7 by Ellis.

**Senator Seliger:** Thank you, Mr. President. Members, Senator Hinojosa's sort of really described this amendment as returning tuition to the power and authority of the State Legislature, and yet, almost every Member that has stood up has said that that power and authority has not been used to the most advantageous because people think that higher ed has been underfunded. A number of people have gotten calls and say we want tuition to be re-regulated. This bill does re-regulate tuition, make no mistake, but except beside leaving it up to the power and authority or whimsy of the State Legislature, it gives it empirical measures under which those circumstances, what the circumstances are, under which tuition, not just have you effectively lobbied your Member of the Legislature to let you raise tuition, whether it's in Austin or Wichita Falls or Alpine, but make them find measures that justify that increase in tuition. That being the case, I move to table the amendment.

**Presiding Officer:** Senator Ellis to close on the amendment.

**Senator Whitmire:** Senator Seliger, a brief question.

**Presiding Officer:** Senator Seliger, will you yield to—

**Senator Seliger:** I do.

**Presiding Officer:** —Dean Whitmire?

**Senator Whitmire:** Briefly, under your formula, I was not clear, what if in an instance of a period of deflation, you know, inflation right now is, in fact, I read *The New York Times* yesterday, the feds are trying to decide if two percent inflation would be the acceptable level for our country. We're not at two percent inflation. I assume today, it's about one or almost zero, so how does that impact the ability for the regents to raise tuition if there is zero inflation? I'm suggesting is maybe Senator Ellis' proposal, we would have a better opportunity to properly fund higher ed if we don't have a arbitrary proposed formula, we just go through the Finance Committee process, working with higher ed, and we as legislators determine what is adequate, looking at their costs. And we didn't even get into the fact that they could save some monies, you know, before they raise tuition any more. I think we ought to, quite frankly, review five million dollar a year football coaches' salaries and some of the buildings that they propose. I mean, I could get into the whole sound financial picture of our universities and how they manage the public's monies, but we haven't gone there. But I think we ought to keep in mind that they probably do waste some monies that they ought to cut out before they raise the tuition that they've been doing in recent history. But, specifically, do you, how does it work if there's zero inflation, for instance? Would that mean they do not raise the tuition, but, of course, the Schwertner amendment allows a three percent above inflation, is that, is that a limitation or can they go above that if they choose or—

**Senator Seliger:** If there is zero inflation, it presumes that tuition increases would happen on top of increases in inflation, there would be none. But that also seems—

**Senator Whitmire:** Okay, let me make that clear because I'm not sure the Members have done the math. If there's zero inflation, there'd be zero increase in tuition?

**Senator Seliger:** I believe that's exactly—

**Senator Whitmire:** What if—

**Senator Seliger:** —the case.

**Senator Whitmire:** —we have deflation, which parts of the world in the developed countries are experiencing? What if we have deflation? Are they going to lower tuition?

**Senator Seliger:** This bill does not give the responsibility to lower tuition, but are you suggesting then in a time of deflation that you would suggest that the Legislature then go in and allow, decrease—

**Senator Whitmire:** I—

**Senator Seliger:** —tuitions then?

**Senator Whitmire:** —don't, I don't know, I mean, I was just sitting here, and I wrote a note to myself—

**Senator Seliger:** You, you're right—

**Senator Whitmire:** —as you and—

**Senator Seliger:** —if you have—

**Senator Whitmire:** —as you and Senator Schwertner were talking about inflation, which, you know, 10, 20 years ago, it was going through the roof. Today, it's about one percent. The feds are trying to decide, based on allowing the prime rate and other factors to go up, whether, big headline yesterday was, is two percent acceptable for the country before the feds act on raising interest rates. So, I know it's below two, I'm guessing based on what we get paid on our money markets and other instruments, it's less than one percent. In fact, I think you can get a home mortgage right now for probably less than one percent. And certainly the state's making less than one percent on the monies that we've got sitting over there in the treasury while we're paying high interest rates in some of our outstanding bonds. But that's a discussion for another day.

**Senator Seliger:** It is.

**Senator Whitmire:** How, how does, how does your formula work if it's, let's state zero inflation, which is a real possibility?

**Senator Seliger:** If zero is inflation, it's three percent, just as in—

**Senator Whitmire:** It's—

**Senator Seliger:** —Senator Schwertner's amendment.

**Senator Whitmire:** —okay. So, getting to the concern of Senator Zaffirini, and I believe all of us, that we want it adequately funded, what if three percent, an arbitrary number that's been worked out in this legislation, is not adequate? At least Senator Ellis' proposal would allow us to do the responsible thing, and it might require a four percent increase to be—

**Senator Seliger:** It—

**Senator Whitmire:** —sufficient.

**Senator Seliger:** —it almost sounds like you have an immutable faith in a Legislature to do whatever the right thing is, that soon as deflation goes to zero and the economy gets really bad, then we will go in and do the right thing and provide more money and provide the ability, provide more tuition. There is no history to suggest that's the case.

**Senator Whitmire:** Well, we didn't have nine freshmen looking back in history, that's one change in the makeup, and we also didn't have the shale oil play in South Texas. I mean, we do have the monies to do the responsible thing, and I think, quite frankly, if you look at the Senate's proposed budget, we've done a pretty responsible job. But I just also wrote down as I was listening to you, it's not, it would not be a total miracle to have deflation in certain economic times, and I just didn't know what that would do to your formula, or I don't even know how the three percent would kick in. I guess, does deflation, which would mean the cost of everything is going down, impact what we ought to provide the colleges, or should they have to be required to cut their expenses at that time?

**Senator Seliger:** But I find it difficult to understand your faith in case of such a situation which is kind of catastrophic, that whatever the problems are, the Legislature will then go in and either allow big increases in tuition or provide more money in formula. I don't necessarily, I don't have that kind of faith in the Legislature.

**Senator Whitmire:** Well, the bottom line is, I would actually go back to the model that I worked with for about 20 years. We did fund, we did fund higher ed properly in the '70s and the '80s, and we subsidized what it was costing because we wanted students to have lower, we bragged about it as a State Legislature that we had low tuition in the State of Texas. We led the nation for the most part in lower tuition than what the actual cost was because we were encouraging people to get that college degree, and I assume most of us benefited from it. So, anyway, I personally, at this point in our history, with the kind of revenue that we're expecting, in an environment where we're actually cutting taxes 4.5 billion, you know, think about the possibilities there if we wanted to improve higher ed, certainly their crowded facilities. I just think Senator Ellis is giving us an opportunity to make a dramatic change in how our, how higher ed is funded. And I want—

**Senator Seliger:** Let's make sure—

**Senator Whitmire:** —I want to say, Schwertner, I was sitting in Houston reading the papers all fall, and this gentleman, Schwertner, made it an issue that we were going to deal with this session, and now I think Senator Ellis is even taking it to the next level that I intend to support because I've been here when it worked under the Ellis proposal.

**Senator Seliger:** We want to be clear that we understand all of the elements. Today, tuition in public universities in the State of Texas is about 12 percent below the national average, and in community colleges, about 30 percent below. And so, we're not necessarily robbing our kids for the education that they get. I want to make that very, very clear. This is the attempt to re-regulate tuition. It's just to do it along empirical factors, not just upon our faith in a Legislature to do the right thing.

**Senator Whitmire:** Well, one last thing, you're absolutely right, we're lower, but it's not only Texas that's bankrupting families and students to get the monies to pay their tuition. It's actually a national crisis, and I've read articles where the debt on college costs and tuition is actually holding down the economy's opportunity to grow. So, we're—

**Presiding Officer:** Thank you, Senator Whitmire.

**Senator Whitmire:** —we're got to deal with, Mr. President, are you kind of rushing me or something?

**Presiding Officer:** No, Sir, just, I was thanking you for your wonderful comments. Thank you, Senator Whitmire. Members, Senator Seliger has moved to table Floor Amendment No. 7, Senator Ellis to close.

**Senator Ellis:** Thank you, Mr. President. Members, I have faith in this Legislature just as I had faith in the Legislature that created the institutions that we have. I just hope you listened to that, the dialogue a little bit—2003 was the first time the Grand Old Party controlled both Chambers of the Legislature. And you had a lot of people

pushing this because they figured you all wouldn't be mature enough to continue the great institutions that were created before you got here. That's really what it amounts to. So, you had some of your leadership slip this on through, in the dark of night. Look, I didn't help you all get here, but you're here now. You make tough decisions, just like when my party was in control they had to make tough decisions. That's what it amounts to. Here's the, here's the question. How does Texas tuition growth compare to the other states? And here's the answer. Texas increases in tuition fees since 2003, 174 percent, the highest, the fifth-highest increase in the nation. States that have had larger tuition increases would be Hawaii, Arizona, Georgia, and Nevada. I just hope you'll cast a vote based on what you think is in the best interest of your constituents. Cast a decision based on what you think will make accountability be the issue when any institution wants to raise tuition. So, I would ask you, respectfully, vote against the motion to table.

**Presiding Officer:** Thank you, Senator Ellis. Members, the motion on the floor is to table Floor Amendment No. 7. Secretary, would you please call the roll?

**Secretary of the Senate:** Bettencourt. Birdwell. Burton. Campbell. Creighton. Ellis. Eltife. Estes. Fraser. Garcia. Hall. Hancock. Hinojosa. Huffines. Huffman. Kolkhorst. Lucio. Menéndez. Nelson. Nichols. Perry. Rodríguez. Schwertner. Seliger. Taylor of Galveston. Taylor of Collin. Uresti. Watson. West. Whitmire. Zaffirini.

**Presiding Officer:** 17 ayes, 14 nays, the motion to table prevails. Thank you, Senator Ellis. Thank you, Senator Seliger.

